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Official Report

Bengal Legislative Council Debates

Budget Session, 1940

16th February—2nd April, 1940

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BENGAL LEGISLATIVE COUNCIL.

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DEPUTY PRESIDENT.

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Begum HAMIDA MOMIN.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur,

Mr. H. C. A. HUNTER.

GOVERNMENT of BENGAL.

GOVERNOR OF BENGAL.

His Excellency Sir JOHN ARTHUR HERBERT, G.C.I.E.

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The Hon'ble Khwaja Sir NAZIMUDDIN, K.C.I.E., in charge of the Home Department.

The Hon'ble Sir BIJOY PRASAD SINGH ROY, in charge of the Revenue Department.

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca, in charge of the Departments of Public Health (including Medical) and Local Self-Government.

The Hon'ble Maharaja SRIS CHANDRA NANDY, of Cossimbazar, in charge of the Department of Communications and Works.

The Hon'ble Mr. HUSEYN SHAHEED SUHRAWARDY, in charge of the Departments of Finance, Commerce and Labour.

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur, in charge of the Judicial and Legislative Department.

The Hon'ble Mr. PRASANNA DEB RAIKUT, in charge of the Forest and Excise Departments.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK, in charge of the Co-operative Credit and Rural Indebtedness Department.

The Hon'ble Mr. TAMIZUDDIN KHAN, in charge of the Departments of Agriculture, Industries (including Veterinary) and Rural Reconstruction.

BENGAL LEGISLATIVE COUNCIL

ALPHABETICAL LIST OF MEMBERS.

A

1. Ahmed, Mr. Nur. [Chittagong Muhammadan (Rural).]
2. Ahmad, Khan Bahadur Naziruddin. [Burdwan Division Muhammadan (Rural).]
3. Ahmed, Mr. Mesbahuddin. [Bengal Legislative Assembly.]

B

4. Baksh, Mr. Kader. [Bengal Legislative Assembly.]
5. Banerjee, Rai Bahadur Keshab Chandra. [Dacca Division North General (Rural).]
6. Barua, Dr. Arabinda. [Chosen by the Governor.]
7. Bose, Rai Bahadur Manmatha Nath. [Burdwan Division South-West General (Rural).]

C

8. Chakraverti, Mr. Shrish Chandra. [Calcutta General (Urban).]
9. Chaudhury Mr. Moazzemali *alias* Lal Mia. [Faridpur Muhammadan (Rural).]
10. Chowdhury, Khan Sahib Abdul Hamid. [Mymensingh West Muhammadan (Rural).]
11. Chowdhury, Mr. Khorshed Alam. [Bakarganj Muhammadan (Rural).]
12. Chowdhury, Khan Bahadur Rezzaqul Haider. [Noakhali Muhammadan (Rural).]
13. Chowdhury, Mr. Hamidul Huq. [Bengal Legislative Assembly.]
14. Chowdhury, Mr. Humayun Reza. [Rajshahi *cum* Malda Muhammadan (Rural).]
15. Cohen, Mr. D. J. [Chosen by the Governor.]

D

16. Das, Mr. Lalit Chandra. [Chittagong Division General (Rural).]
17. Datta, Mr. Bankim Chandra. [Bengal Legislative Assembly.]
18. Datta, Mr. Narendra Chandra. [Bengal Legislative Assembly.]
19. D'Rozario, Mrs. K. [Chosen by Governor.]
20. Dutta, Mr. Kamini Kumar. [Bengal Legislative Assembly.

E

21. Ellahi, Khan Bahadur S. Fazal. [Presidency Division South Muhammadan (Rural).]

22. Esmail, Khan Bahadur Alhadj Khwaja Muhammad. [Dacca North-West Muhammadan (Rural).]

G

23. Goswami, Mr. Kanai Lal. [Calcutta Suburbs General (Urban).]

H

24. Hunter, Mr. H. C. A. [European.]

25. Haider, Nawabzada Kamruddin. [Bengal Legislative Assembly.]

26. Hosain, Khan Bahadur Saiyed Muazzamuddin. [Bengal Legislative Assembly.]

27. Hossain, Mr. Latafat. [Chosen by the Governor.]

28. Hossain, Mr. Mohamed. [Bengal Legislative Assembly.]

29. Huq, Khan Bahadur Syed Muhammad Ghaziul. [Tippera Muhammadan (Rural).]

I

30. Ibrahim, Khan Bahadur Maulvi Muhammad. [Bogra Muhammadan (Rural).]

J

31. Jan, Alhadj Khan Bahadur Shaikh Muhammad. [Calcutta and Suburbs Muhammadan (Urban).]

K

32. Kabir, Mr. Humayan. [Bengal Legislative Assembly.]

33. Karim, Khan Bahadur M. Abdul. [Mymensingh East Muhammadan (Rural).]

34. Khan, Khan Bahadur Muhammad Asaf. [Rangpur Muhammadan (Rural).]

35. Khan, Maulana Muhammad Akram. [Bengal Legislative Assembly.]

L

36. Laidlaw, Mr. W. B. G. [European.]

M

37. Maitra, Rai Bahadur Brojendra Mohan. [Rajshahi Division South-West General (Rural).]
38. Mackay, Mr. H. G. G. [Bengal Legislative Assembly.]
39. *Mitra, the Hon'ble Mr. Satyendra Chandra. [Bengal Legislative Assembly.]
40. Molla, Khan Sahib Subidali. [Bengal Legislative Assembly.]
41. Momin, Begum Hamida. [Chosen by the Governor.]
42. Mookerjee, Mr. Naresh Nath. [Bengal Legislative Assembly.]
43. Mookerji, Dr. Radha Kumud. [Bengal Legislative Assembly.]
44. Mukherji, Rai Bahadur Satis Chandra. [Burdwan Division North-East General (Rural).]

O

45. Ormond, Mr. E. C. [Bengal Legislative Assembly.]

P

46. Pal Chaudhury, Mr. Ranajit. [Presidency Division General (Rural).]
47. Poddar, Mr. H. P. [Bengal Legislative Assembly.]

R

48. Rahman, Khan Bahadur Ataur. [Presidency Division North Muhammadan (Rural).]
49. Rahman, Khan Bahadur Mukhlesur. [Rajshahi Division North Muhammadan (Rural).]
50. Rashid, Khan Bahadur Kazi Abdur. [Dacca South-East Muhammadan (Rural).]
51. Ray, Mr. Nagendra Narayan. [Bengal Legislative Assembly.]
52. Ross, Mr. J. B. [Bengal Legislative Assembly.]
53. Roy, Mr. Amulya Dhone. [Bengal Legislative Assembly.]
54. Roy, Rai Bahadur Radhica Bhusan. [Bengal Legislative Assembly.]
55. Roy Chowdhury, Mr. Krishna Chandra. [Chosen by the Governor.]

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*President of the Bengal Legislative Council.

S

56. Sanyal, Mr. Sachindra Narayan. [Bengal Legislative Assembly.]
57. Sarker, Rai Sahib Indu Bhusan. [Dacca Division South General (Rural).]
58. Sen, Rai Sahib Jatindra Mohan. [Rajshahi Division North-West (Rural).]
59. Shamsuzzoha, Khan Bahadur M. [Bengal Legislative Assembly.]
60. Singh Roy, Mr. Saileswar. [Bengal Legislative Assembly.]
61. Sinha, Rai Bahadur Surendra Narayan. [Bengal Legislative Assembly.]
62. Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur. [Bengal Legislative Assembly.]
63. Scott-Kerr, Mr. W. F. [European.]

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Buildings, Calcutta, on Friday, the 16th February, 1940, at 2-15 p.m., being the first day of the First Session, pursuant to section 62(2)(a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Replies to Questions unanswered during the November-January Session, 1939-40.

District Education Committee of Noakhali.

159. Mr. LALIT CHANDRA DAS: (a) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether it is a fact that in the District Education Committee of the Noakhali District Board of which Khan Bahadur Rezzaqul Haider Choudhury, M.L.C., is the Chairman, Babu Monoranjan Choudhury, M.A., B.L., of the Noakhali Bar, was elected a member and whether it is a fact that the election of Monoranjan Babu was set aside for his being a well-known Congressman in that district? If not, why did not the Commissioner of the Chittagong Division or the Government accept his nomination to that Committee?

(b) Is it a fact that Maulvi Golam Sarwar, M.L.A., has been nominated a member of the Noakhali Primary School Board by the Government?

(c) Was not in these two cases political and communal considerations the determining factor? Why could not Monoranjan Babu ultimately get into the District Education Committee while Maulvi Golam Sarwar could get into the School Board?

MINISTER in charge of the EDUCATION DEPARTMENT (the Hon'ble Mr. A. K. Fazlul Huq): (a) Babu Monoranjan Choudhury was so elected but the Commissioner, Chittagong Division, refused to approve of his appointment. Government are not prepared to disclose the reasons for this refusal, but the fact that he is a Congressman was not one of the reasons.

(b) Yes.

(c) (1) No.

(2) Because the Commissioner did not approve of his appointment.

Mr. LALIT CHANDRA DAS: Arising out of (c) (2), will the Hon'ble Minister be pleased to state whether there are instances where Government appointed persons who were not approved by the Commissioner?

The Hon'ble Mr. A. K. FAZLUL HUQ: There may be some cases. There may be some reasons also for the deviation.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether the Minister himself was actually satisfied with the reasons that were given by the Commissioner for not appointing Babu Monoranjan Chaudhuri to the Education Committee?

The Hon'ble Mr. A. K. FAZLUL HUQ: I can say that I had no reason to differ from the decision of the Commissioner.

Cases of dacoities, etc., in Noakhali.

160. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Home Department be pleased to make a statement regarding the following particulars with respect to each of two subdivisions of the Noakhali district from the year 1929 up to the present day—

(*a*) the number of dacoities committed in each of the years:

(*b*) the name of the person or persons in whose houses the dacoities were committed and amount of loss sustained in each dacoity; and

(*c*) the names of the accused person or persons who had been tried by the Court of Sessions or by Special Tribunal appointed for the purpose, and the results of the trials, showing each case separately?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): Statements for the last ten years are placed in the Library.

Rural Reconstruction Work in Noakhali.

161. LALIT CHANDRA DAS: (*a*) Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to make a statement regarding the following particulars with respect to the Noakhali district:—

(*i*) the amount allotted to the district for rural reconstruction;

(*ii*) the number of tube-wells sanctioned for each subdivision of the district for water-supply;

(*iii*) the names of the contractors in each subdivision and the number allotted to each of the contractors; and

(*iv*) the number of tube-wells completed according to the contracts in each subdivision?

(*b*) Is it a fact that a representation was made to the Commissioner of the Chittagong Division to the effect that a large number of tube-wells was allotted to one Bethu Mia *alias* Azizul Haque although he had no previous experience or skill as to the sinking of tube-wells and that this particular contractor withdrew a large sum before the completion of the tube-wells according to the terms of contract and that the Commissioner found the allegations to be true?

(*c*) If the allegations in the representation to the Commissioner are substantially correct, does the Hon'ble Minister propose to take legal steps against the contractor and the officials involved in the affair?

MINISTER in charge of the PUBLIC HEALTH and LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): (*a*) (*i*) to (*iii*) A statement is laid on the table.

(*iv*) No tube-well has yet been sunk in any subdivision.

(*b*) No such representation appears to have been received by the Commissioner.

(*c*) Does not arise.

Statement referred to in the reply to clause (a) (i) to (iii) of question No. 161.

(*a*) (*i*) Rs. 18,184.

(*ii*) 158 tube-wells for the Sadar and 65 tube-wells for the Feni subdivision.

	Tube-wells.
(*iii*) Sadar subdivision—	
(1) Messrs. Luxmi Narayan and Company	... 47
(2) Nazi Abdul Kader and Company	... 53
(3) Ramani Mohan De, Contractor	... 19
(4) Fazal Haque, Contractor	.. 11
(5) Anabali, Contractor	... 9
(6) Serajul Haque and Company	.. 19
Total	... 158
Feni subdivision—	
(1) Golam Hossain	... 37
(2) Mohendra Kumar De	... 18
(3) Abdul Haque	... 10
Total	... 65

Formation of Anti-Malaria Societies in certa n villages of Jessore.

162. Mr. K. C. ROY CHOWDHURY: (*a*) Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state if it is a fact that on the 25th March, 1936, the then Hon'ble Minister in charge of the Local Self-Government Department stated on the floor of the Legislative Council that the Government approached the villagers of Sankarpur, police-station Narail, district Jessore, for forming an anti-malaria society but the villagers refused to do so?

(*b*) If so, will the Government be pleased to enlighten the House on the following facts:—

(*i*) what are the names of the villagers whom the Government approached;

(*ii*) what is the date of approachment;

(*iii*) who approached; and

(*iv*) what is the name and designation of the approacher?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: No further information could be collected, although local enquiries were made in the matter, beyond what was stated in reply to this question on the 3rd January, 1940.

Mr. K. C. ROY CHOWDHURY: Will the Hon'ble Minister be pleased to make fresh enquiries because the villagers of that locality seem to know nothing about it? None of the Government Officials approached the villagers and in view of this will the Hon'ble Minister make fresh enquiries?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: Yes, I shall.

Hon'ble Ministers residing in rented houses of the Calcutta Improvement Trust.

163. Mr. RANAJIT PAL CHOUDHURY: (*a*) Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state how many Ministers are residing in the rented houses of Calcutta Improvement Trust and what are their names?

(*b*) What is the amount of rent that each of the Ministers pay monthly for their houses?

(c) Is it a fact that the rents of these houses have been much reduced on the alleged consideration that the houses are in a dilapidated condition?

(d) Did the Calcutta Improvement Trust undertake to make repairs at their own cost to these houses?

(e) What amounts were spent for each of the houses occupied by the Ministers?

(f) Will Government state when the houses were fully repaired and if normal rates of rent are demanded from the Ministers?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: (a) The Hon'ble Khwaja Sir Nazimuddin and myself are living in portions of the Calcutta Improvement Trust's rented premises No. 9, Gariahat Road, and No. 52, Gariahat Road, respectively.

(b) Rupees 350.

(c) and (f) As regards house No. 9, Gariahat Road, the present rent is much higher than the rent which obtained for the house in the past.

As regards house No. 52, Gariahat Road, the rent cannot be considered as reduced.

The houses were never fully repaired.

(d) As regards No. 9, Gariahat Road, the answer is "No". On the other hand, there was definite understanding that the Trust would not spend any money for repair works on this house.

As regards No. 52, Gariahat Road, the Trust undertook to spend Rs. 150 only for certain renovation works.

(e) After we occupied the houses, the Trust spent Rs. 1,554 on No. 9, Gariahat Road, for renovation of the electric installation and setting back a portion of the compound wall. The latter work would have to be done in any case after the house was acquired by the Trust and before leasing out. Rs. 765 was similarly spent by the Trust on the other house for a new pump and renovation of the electric installation with consequent slight structural alterations.

Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister be pleased to state if the Trust have undertaken any sort of repairs excepting that of electric installation?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca:

Mr. RANAJIT PAL CHOUDHURY: Is it a fact that some officers of the Trust went to execute certain orders on a certain House occupied by a certain Minister and were hooted out by the Police who keeps guard over that House?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: I am not aware of any such event.

Silting up of certain rivers of Faridpur.

164. Mr. MOAZZEMALI CHOUDHURY: (*a*) Is the Hon'ble Minister in charge of the Communications and Works Department aware that the Chandana, Kumar and Palong Naria rivers in the district of Faridpur have been almost silted up and have become unnavigable during the winter season?

(*b*) Is he aware that owing to the silting up of the Lower Kumar, the Local Government has lost an annual income of a few lakhs of rupees from the toll collection on the *bil* route?

(*c*) Is he aware that owing to the silting up of the above-mentioned rivers, communications by steamers and boats in many parts of the district of Faridpur have become impossible?

(*d*) Has the Hon'ble Minister considered the fact that the lock and sluice gates put up at the mouths of several canals falling into the Lower Kumar have become useless for the purpose of protecting the Lower Kumar from being silted up? If so, why are those gates still maintained to the immense injury to agriculture, health and comunications of the public concerned and also to the recurring loss from the Government revenue?

(*e*) Has the Hon'ble Minister's Department prepared any scheme for dredging the abovementioned rivers or for resuscitating all or any of the abovementioned rivers? If so, when does the Government propose to undertake to implement those schemes?

(*f*) Is it the decision of the Local Government not to make any attempt to improve the steamer and boat communications in the district of Faridpur?

(*g*) Does the Local Government propose to move the Government of India to open new railway lines to remove the difficulties of communications in that district?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Srischandra Nandy, of Cossimbazar): (*a*) and (*c*) The Chandana and the Kumar system of

rivers have deteriorated owing to natural causes and some long shoals have recently formed in the Palong Nalla. In consequence, navigation has become difficult especially during the dry season.

(*b*) Yes.

(*d*) The lock and sluice gates are still useful in maintaining a better flow and retarding siltation.

(*e*) and (*f*) Government have contributed two-thirds of the cost of re-excavating the Bhanga-Faridpur *khal* and the Mrigi-Chatra *khal*. Besides, a large amount of money has been spent on dredging the Palong Nalla and the Kutubpur shoals to facilitate communications within the district.

The highly complex problem of permanently improving the Lower Kumar river has engaged the attention of the officers of the department for some time; and the question of improving the Chandana is also under investigation.

(*g*) No.

Flood in Chittagong.

165. Khan Bahadur SAIYED MUZZAMUDDIN HOSAIN (on behalf of Mr. Nur Ahmed): (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state if he has made any enquiry into the causes of recent floods in August last in the district of Chittagong?

(*b*) If so, will he please state what are the real causes of such flood?

(*c*) Is it a fact that the construction of the Karnafully bridge near Kalughat with insufficient openings and the bend in the Halda river are the main causes of this extraordinary flood? If so, has he taken any steps or intends to take any to remove these defects in order to prevent the recurrence of such floods in future? If not, why not?

(*d*) Is it a fact that the villages lying around the Gomordhan *bil* was very much affected by the flood? If so, what steps does the Government intend to take to provide rapid and easy discharge of rain-water from this *bil*?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: (*a*) Yes.

(*b*) and (*c*) I am informed that the flood was due to very heavy rainfall towards the end of July and unusually high tides in August.

I visited some of the affected areas recently accompanied by my principal technical adviser, whose proposals I hope to receive at an early date.

(*d*) Yes, a scheme for draining the Goman Mardhan *bil* is being considered. I am glad to be able to add that I have been informed that good crops have been obtained in the *bil* since the flood.

Debt Settlement Boards.

***166. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN (on behalf of Mr. Nur Ahmed):** (*h*) How many appeals have been filed in Chittagong before the Special Officer against the decisions of the Debt Settlement Boards in Chittagong?

(*i*) In how many cases have the appeals been allowed and in how many cases have they been rejected?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: (*h*) 480.

(*i*) Allowed 202 and rejected 209.

Mr. LALIT CHANDRA DAS: Arising out of (*i*), will the Hon'ble Minister be pleased to state whether any steps have been taken to remodel the debt settlement boards in view of the fact that as many as 202 appeals have been allowed?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I do not know if the question arises out of this.

Mr. LALIT CHANDRA DAS: May I know, Sir, whether that is a sufficient answer to my question? My question is whether steps have been taken by the Government to remodel the debt settlement boards in view of the facts that as many as 202 appeals out of a total of 480 have been allowed.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: If any question of making any mistake arises, it is settled by the Appellate Court. With regard to other matters Government do take proper steps in individual cases.

Mr. LALIT CHANDRA DAS: I ask whether any steps have been taken by the Government to remodel the debt settlement boards in view of the fact that as many as 202 appeals were allowed out of 480 cases.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I submit that when it is a question of the application of law, Government have no authority whatsoever. Government do take steps in individual cases when they are brought to their notice.

Mr. LALIT CHANDRA DAS: I want to know whether any steps have been taken to remodel these debt settlement boards whose decisions have been upset in so many cases.

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* *N.B.*—Other clauses of the question were replied to on the 18th January, 1940—*vide* question No. 155 of the List of questions and answers of the 18th January, 1940.

Mr. PRESIDENT: Order, order. The only point is whether Government contemplate taking any action in view of the fact that 50 per cent. of the appeals have been allowed.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: No, Sir.

Replies to Questions of the Current Session.

Government loans for sinking of tube wells.

1. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: (*a*) Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department kindly state what is the average life of a tube-well in Bengal?

(*b*) Is he aware that tube-wells are now being sunk by many District Boards on taking loan from the Government?

(*c*) Is he aware that it will be beyond the financial capacity of most boards to resink tube-wells when old ones cease to function?

(*d*) Is he aware that the prices of tubes and pumps have gone up enormously since the outbreak of the war?

(*e*) Is he aware that the tube-wells contemplated to be sunk according to the loan scheme, cannot be sunk now unless further loans be sanctioned?

(*f*) In view of the average life of a tube-well, and the difficulties of resinking, does the Hon'ble Minister propose to reconsider the whole water-supply problem of Bengal and draw up a scheme which will not only solve the immediate needs, but also the future requirements of the Province?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: (*a*) The average life of a tube-well is calculated by experts to be approximately ten years. This, however, depends on the quality of the strainers used, the nature of the strata in which the pipes and strainers are placed and also on the method of sinking.

(*b*) Yes, only three District Boards, viz., Khulna, Malda and Mymensingh, have so far taken loans for improvement of rural water-supply.

(*c*) No. If the tube-wells can be kept in working order for a period of ten years which is also the term of the loans sanctioned, the District Boards will be free from liability in respect of the loan at the close of the period and should be able to undertake fresh works of water supply including resinking of old tube wells. The cost of resinking tube-wells would be less than the cost of sinking new wells as the old pipes, and, in most cases, the strainers, can be used again.

(*d*) Yes.

(*e*) As the prices of materials have gone up, it will not be possible to sink the same number of tube-wells as are provided in the programme. The programme of work will, in the circumstances, have to be curtailed to a certain extent.

(*f*) The matter is already under my consideration and a detailed programme of work with a view to solving the problem of rural water-supply effectively within a reasonable period, is being drawn up for the whole Province with the aid of the District Boards and in consultation with local water-supply committees which have been set up for the purpose.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: With reference to answer (*c*), will the Hon'ble Minister be pleased to state if the District Board has been consulted as to whether it will be able to take up fresh work and also repair those tube-wells after ten years? I want to know whether it will have sufficient money.

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: As I have already explained, loans are granted on certain terms and our experts say that these tube-wells need no repairs for ten years, and we believe by that time the loans will be cleared and therefore I do not think it is necessary to consult the District Board in this matter.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: With reference to answer (*e*)—the prices of materials have gone up—what will happen to the water-supply scheme according to which one tube-well is to be provided for 1,000 people if this is to be reduced further? Will it be sufficient at all to meet the problem?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: I do not say that it will be sufficient. As I have already stated in answer (*f*), we are considering the problem of rural water-supply for the whole of Bengal and this matter will be taken up along with that.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: When can we expect a decision on the point of rural water-supply?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: I hope within a few months.

Mr. RANAJIT PAL CHOUDHURY: Is the Hon'ble Minister aware that tube-wells in mofussil frequently go out of order and give trouble?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: I am not aware of that. I suppose the tube-wells go out of order on account of mishandling of them by the people of the locality.

Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister be pleased to state what the average cost of an average tube-well is?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: That, Sir, depends on the locality. In some places the cost is very low; in some places you have got to spend considerable sums of money on account of the soil, etc. I could not reply off-hand to this question.

Mr. RANAJIT PAL CHOUDHURY: Considering that the tube-wells do go out of order frequently and, as admitted by the Hon'ble Minister himself, that the prices of materials have gone up very heavily, is it not in the contemplation of Government to sink ordinary wells instead of tube-wells?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: Sir, this is a matter of policy which requires a great deal of consideration and I cannot answer the question off-hand.

Female waiting room in Bhairab railway station.

2. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: (*a*) Is the Hon'ble Minister in charge of the Communications and Works Department aware that the female waiting room attached to Bhairab railway station (Assam-Bengal Railway) is just by the side of the tea-stall and that the female passengers cannot go to the waiting room without passing by the stall which is always crowded during train time?

(*b*) Is he aware that this matter affecting the privacy of the female passengers was brought to the notice of the Assam-Bengal Railway authorities by the local people, but that the authorities have so far omitted to take any action in the matter?

(*c*) Will he be pleased to state whether he proposes to impress upon the Railway authorities the necessity of paying due consideration to the question of the privacy of female passengers in waiting rooms especially reserved for them?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: (*a*) Yes.

(*b*) I understand that to meet the objections the administration has built an extension at a cost of Rs. 1,414.

(*c*) Does not arise.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: With reference to answer (*b*), may I inquire when this extension was made?

Mr. PRESIDENT: The Hon'ble Minister will realize that this is a matter under the Railway Administration and this Government is to seek information from the Government of India.

Excise licensees of Burdwan.

3. Khan Bahadur Maulvi MUHAMMAD IBRAHIM: (*a*) Will the Hon'ble Minister in charge of the Forest and Excise Department be pleased to state—

(*i*) the date on which Mr. B. Sarkar, I.C.S., assumed charge as Collector of Burdwan;

(*ii*) the percentage of Caste Hindus, Muhammadans, Scheduled Castes and others among the licensees who held different kinds of excise shops in Burdwan district on that date; and

(*iii*) the number of cases where the shops were re-settled by Mr. B. Sarkar up to date?

(*b*) Will the Hon'ble Minister be pleased to state in a tabular form the number of Caste Hindus, Muhammadans, Scheduled Castes and others with whom the shops were re-settled by Mr. B. Sarkar as above showing also the aggregate monthly income of these shops in the case of each such community at the time of the settlement?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK (on behalf of the Hon'ble Mr. Prasanna Deb Raikut): (*a*) (*i*) The 18th June, 1938.

(*ii*), (*iii*) and (*b*) It is regretted that it has not been found possible to obtain accurate figures, since no registers are maintained either in the office of the Excise Commissioner or in the District Excise offices showing the particulars required.

Unscientific fishing.

4. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: (*a*) Is the Hon'ble Minister in charge of the Agriculture and Industries Department aware that small fries of big fishes like Ruhi, Katal, etc., are caught by fishermen indiscriminately and sold for daily human consumption in very large quantities in Bengal?

(*b*) Is he also aware that Hilsa and other fishes are caught even during the spawning season?

(*c*) Is he aware that such indiscriminate destruction of the smaller fries of such important species as Ruhi, Katal, etc., has already caused scarcity of fish in certain parts of Bengal where they were found in abundance before?

(*d*) Is the Government contemplating to enact any legislative measure for controlling such indiscriminate and unscientific destruction of fish fries in the Bengal rivers?

(*e*) If the reply to clause (*d*) be in the affirmative, will he kindly state when such legislation can be expected?

MINISTER in charge of the AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Mr. Tamizuddin Khan): (*a*) and (*b*) Yes.

(*c*) I am not aware of any actual scarcity of fish in any part of the Province owing to this cause, but I am fully alive to the dangers involved and to the ultimate effect on the fish resources of the Province.

(*d*) and (*e*) The question of legislation to prevent catching of immature and what is more important, the catching of spawning fish will be taken up when the Fishery Department is revived—a scheme for which is under consideration. The passing of legislation in the absence of a proper agency to enforce it would be of little use.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Does the Hon'ble Minister realize that even an order to the effect that the catching of fish should not be persisted in during certain months of the year will have some effect and will prevent catching of fish fries and spawning fish?

The Hon'ble Mr. TAMIZUDDIN KHAN: Government do not propose to pass orders to enforce which it has no machinery.

Restriction of jute cultivation.

5. **Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN:** (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department kindly state if the Government has decided upon restricting the area under jute cultivation?

(*b*) Has his attention been drawn to the table of annual production and consumption of jute given at page 65 of Khan Bahadur Azizul Huq's book, entitled "Man behind the plough" from which it appears that prices of jute did not rise or fall with lesser production or over-production during the last 12 years from 1926 to 1937?

(*c*) Will he kindly state from what data Government has concluded that the fall in the prices of jute has been due to overproduction?

(*d*) Will he kindly state whether it is not a fact that the prices of jute are entirely controlled by the middlemen?

(*e*) Will he kindly state if the Government contemplates establishing warehouses for storage of jute in order to eliminate the mischievous activities of middlemen and the purchasers?

The Hon'ble Mr. TAMIZUDDIN KHAN: (*a*) No.

(*b*) I have seen the table referred to, but I cannot vouchsafe for the correctness of the figures therein or of the inferences drawn therefrom by the author.

(*c*) Government have never maintained that over-production was the sole cause of the fall in jute prices but they consider that it is a main contributing cause. There are many other causes for the low prices that were obtained by growers until very recently. In this connection, I cannot do better than refer the hon'ble member to Chapters III, IV and V of the Report of the Jute Enquiry Committee, a copy of which is laid on the Library Table. These chapters, which were approved by practically the entire Committee give a very clear account of the many factors involved and support the Government view that over-production is a principal cause of low prices.

(*d*) I think it is an exaggeration to say that jute prices are entirely controlled by middlemen. I think also that it is true that the prices received by the growers could be improved by eliminating some of the many middlemen between producer and consumer and by improving the system of marketing.

(*e*) The question of warehousing is under consideration.

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, may I have your permission to amend answer (*a*) of this question? Instead of "(*a*) No", it should be "(*a*) A decision has already been taken."

Mr. PRESIDENT: Yes, you may.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: With respect to answer (*b*), will the Hon'ble Minister be pleased to consider the figures given in his book entitled "Man behind the plough" by the Hon'ble Khan Bahadur Azizul Huq and to verify the same?

The Hon'ble Mr. TAMIZUDDIN KHAN: That is a request for action, though I think that may be done.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: If those figures are to be believed, it shows that even in years when there was overproduction the price was very high and in years of less production the price was very low. It shows that Government has no data for controlling jute.

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, I am surprised to see that the honourable member holds the view that over-production has no relation to price. Government is definitely of the opinion that over-production has a very definite relation to price.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: How are the figures explained then?—figures of production and the price of jute?

(No answer.)

Mr. LALIT CHANDRA DAS: Is the Hon'ble Minister aware that other provinces, namely, Assam and Bihar also grow jute?

The Hon'ble Mr. TAMIZUDDIN KHAN: Yes, Sir.

Mr. LALIT CHANDRA DAS: Has any step been taken to see that the Governments of Assam and Bihar may also follow similar methods as have been adopted by the Bengal Government?

The Hon'ble Mr. TAMIZUDDIN KHAN: Yes, Sir.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state what was the result of the steps taken?

The Hon'ble Mr. TAMIZUDDIN KHAN: We have written to those provinces for co-operation, but no final decision has yet been arrived at, in the absence of replies from them.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether the Bengal Government have written to the Governments of Bihar and Assam apprising them of the proposed scheme of restriction?

The Hon'ble Mr. TAMIZUDDIN KHAN: No, Sir. So far as the current year is concerned, it is impossible for the other Governments to take steps similar to what we have taken here. The only thing that they can possibly do is to launch a propaganda for voluntary restriction.

Mr. LALIT CHANDRA DAS: If no restriction obtains in Bihar and Assam, will not the jute-growers in Bengal suffer by our scheme of restriction?

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, we realize the importance of enlisting the co-operation of those provinces, but I do not think that simply if they cannot co-operate in one single year that will materially affect the situation.

Mr. LALIT CHANDRA DAS: Is the Hon'ble Minister aware that the *fatka* transactions affect the price of jute very much to the prejudice of cultivators?

The Hon'ble Mr. TAMIZUDDIN KHAN: That is a question of opinion. It may be true.

Mr. LALIT CHANDRA DAS: With reference to answer (*d*), in which the Hon'ble Minister has used the word "middlemen", will he be pleased to state whether any action is proposed to be taken for controlling the *fatka* market, so that it may not affect the cultivators prejudicially?

The Hon'ble Mr. TAMIZUDDIN KHAN: Yes, Sir, action is under contemplation.

The Bengal Patni Taluks Regulation (Amendment) Bill, 1939.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, with your permission, I beg to give notice of certain amendments which I want to move in connexion with the Bengal Patni Taluks Regulation (Amendment) Bill, 1939, by Khan Bahadur Rezzaqul Haider Chowdhury, which will come up for consideration in the current session of the Bengal Legislative Council.

Panel of Chairmen.

Mr. PRESIDENT: Under rule 6 of the Bengal Legislative Council Procedure Rules, I nominate—

(1) Mr. Kamini Kumar Dutta,

(2) Begum Hamida Momin,

(3) Raja Bhupendra Narayan Sinha Bahadur, of Nashipur, and

(4) Mr. H. C. A. Hunter,

on the panel of Chairmen for the current session.

Constitution of the House Committee.

Mr. PRESIDENT: Under rule 122 of the Bengal Legislative Council Procedure Rules, I nominate—

The Deputy President (Chairman, *ex-officio*).

(1) Begum Hamida Momin,

(2) Mr. W. B. G. Laidlaw,

(3) Mr. Bankim Chandra Datta,

(4) Mr. Saileswar Singh Roy,

(5) Khan Bahadur Rezzaqul Haider Chowdhury, and

(6) Mr. Mesbahuddin Ahmed,

on the House Committee for the current session.

Governor's Assent to Bill.

Mr. PRESIDENT: I have now to inform honourable members that the following Bill which was passed by both Chambers of the Bengal Legislature has been assented to by His Excellency the Governor under the provisions of section 75 of the Government of India Act, 1935, viz.:—

The Bengal General Clauses (Amendment) Bill, 1939.

The Bengal Jute Regulation Ordinance, 1940.

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, I beg leave to lay before the Council the Bengal Jute Regulation Ordinance, 1940 (Bengal Ordinance No. I of 1940), under section 88 (2) (*a*) of the Government of India Act, 1935.

Appropriation Accounts, Finance Accounts and Audit Report thereon for 1938-39.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, in pursuance of section 169 of the Government of India Act, 1935, I beg to lay before the Council the report of the Auditor-General of India relating to the accounts of this province for the year 1938-39, viz., the Appropriation Accounts, Finance Accounts and the Audit Report.

Statement about action taken by Government on the non-official resolution adopted by Council during November-January Session, 1939-40.

The Hon'ble Khwaja Sir NAZIMUDDIN: Mr. President, Sir, may I inform the House about the action taken on a non-official resolution?

Mr. PRESIDENT: Yes.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, the resolution moved by Rai Bahadur Keshab Chandra Banerji in the Bengal Legislative Council at its meeting held on the 24th of November, 1939, was adopted by the Council and under rule 95 (2) of the Legislative Council Procedure Rules, I beg to inform the House that a copy of the resolution together with the proceedings were sent to the Bengal Board of Film Censors for information and necessary action.

Presentation of Budget Estimates for 1940-41.

Mr. PRESIDENT: Order, order. Mr. Suhrawardy.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, it is my privilege to present to this House the Budget Estimates for the year 1940-41 which were laid before the Assembly yesterday. In my statement which will be placed in the hands of the honourable members a little later, I have reviewed in considerable detail the general financial position of the province as well as the salient features of our Budget proposals for the coming year. For the convenience of the honourable members of this House, copies of that statement have been placed in their hands, and it is therefore unnecessary for me to tax their patience by traversing the same ground once again. I propose to confine myself to a very brief analysis of our budgetary position and prospects.

When the Budget for the current year was presented in February last, it was anticipated that the working of the year 1938-39 would result in a revenue deficit of Rs. 22 lakhs and yield a closing balance of Rs. 78 lakhs. In actual working, the apprehended revenue deficit did not materialise and the closing balance stood at Rs. 91 lakhs or Rs. 13 lakhs above our forecast.

The current financial year thus started under circumstances slightly more favourable than had been originally anticipated.

The House will recall that the current year's Budget proposals were expected to result in a revenue deficit of Rs. 87 lakhs, a deficit that was to be covered by a long term loan of one crore of rupees. The

net result of the year's transactions in the Revenue as well as the Capital and Debt Deposit Section of the Budget was expected to yield a surplus of Rs. 7 lakhs.

The Budget Estimates were based upon two important assumptions both of which have been belied by subsequent events. The first assumption was that weather and crop conditions in the province would be normal. As the House is aware, there were floods and droughts in many districts necessitating a large supplementary demand for loans to agriculturists. The second assumption which has a far more important bearing on our budgetary prospects was that there would be no outbreak of hostilities in Europe. Shipping difficulties caused by the war have adversely affected our receipts from jute duty; against a drop of Rs. 30 lakhs under jute duty we can set improvements of Rs. 21 lakhs under "Income-tax" and of Rs. 7 lakhs under "Land Revenue" and better realisations of loans.

The most noteworthy deviation from the original proposals as a result of changed circumstances, however, consists in the abandonment of the plan to raise a long term loan of one crore of rupees in the open market. The flotation of such a loan in the present uncertain condition of the money market has been considered to be inopportune and it has been decided instead to carry on partly by converting some of the reserves outside the closing balance of 1938-39 and partly by issuing Treasury Bills for short periods to tide over temporary difficulties. The reserves thus converted amount to Rs. 75 lakhs in all. Treasury Bills of the total value of a crore and fifty lakhs of rupees have been or will be issued this year and all but Rs. 60 lakhs out of this will be repaid during the year. All these modifications have been taken into account in the Revised Estimates for the current year. According to these estimates, the year will close with a balance of 1 crore 55 lakhs of rupees which includes Rs. 60 lakhs worth of Treasury Bills repayable in 1940-41. The reserves outside the closing balance have been depleted by the conversion of Rs. 75 lakhs to which reference has already been made. Compared to 1938-39, the financial position has become considerably more stringent.

The Budget for the coming year includes new items of expenditure of about Rs. 54 lakhs, the main increase being under the following heads:—Civil Works—Rs. 13 lakhs, Irrigation—Rs. 6 lakhs, Debt Conciliation—Rs. 6 lakhs, Public Health—Rs. 7 lakhs, Medical—Rs. 3 lakhs, Rural Uplift grants—Rs. 6 lakhs, Education—Rs. 2 lakhs, Superannuation charges—Rs. 6 lakhs, and Extraordinary charges—Rs. 6 lakhs. The Extraordinary charges represent charges which have to be incurred on account of the War. Among the items covered by this head are air-raid precautions, price control and extra police for guarding protected areas. These charges are expected to be eventually recovered from the Government of India.

For the second consecutive year, we have to draw on our balances to cover our revenue expenditure. It is clear, therefore, that we are living beyond our means and the time has come when it is necessary to augment our resources both to balance our budget and also to enable Government to give effect to its programme of constructive development. I am now engaged in a survey of the possible sources of new revenue and I expect to place new taxation proposals before the Legislature before the end of the coming year. I earnestly hope that when these measures are placed before this House, they will receive the unstinted support of honourable members.

Mr. PRESIDENT: The Council stands adjourned till 2-15 p.m. on Wednesday, the 21st February, 1940.

Adjournment.

The Council then adjourned till 2-15 p.m. on Wednesday, the 21st February, 1940.

Members absent.

The following members were absent from the meeting held on the 16th February, 1940:—

(1) Khan Bahadur Naziruddin Ahmad.
(2) Mr. Nur Ahmed.
(3) Rai Bahadur Keshab Chandra Banerjee.
(4) Mr. Humayun Reza Chowdhury.
(5) Mr. Narendra Chandra Dutta
(6) Mr. Kamini Kumar Dutta.
(7) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(8) Mr. Mohamed Hossain.
(9) Mr. H. C. A. Hunter.
(10) Khan Bahadur Syed Muhammad Ghaziul Huq.
(11) Khan Bahadur M. Abdul Karim.
(12) Khan Bahadur Muhammad Asaf Khan.
(13) Maulana Muhammad Akram Khan.
(14) Mr. H. G. G. MacKay.
(15) Begum Hamida Momin.
(16) Dr. Radha Kumud Mookerji.
(17) Rai Bahadur Satis Chandra Mukherji.
(18) Mr. E. C. Ormond.
(19) Khan Bahadur Mukhlesur Rahaman.
(20) Rai Sahib Jatindra Mohan Sen.

B. G. Press—1939-40—13117A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES.

THE COUNCIL met in the Legislative Chamber of the Legislative Buildings, Calcutta, on Wednesday, the 21st February, 1940, at 2-15 p.m. being the second day of the First Session, pursuant to section 62(2)(*a*) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Further replies to questions unanswered during the November-January Session, 1939-40.

Scholarship for girls.

167. Khan Sahib ABDUL HAMID CHOWDHURY (on behalf of Mr. Nur Ahmed): (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state if it is a fact that the total number of scholarships available for girls in Bengal in the primary stage is 136 for the primary preliminary and 70 for primary final stage and that there is now primary final public examination for girls as is the case with the boys reading in primary schools?

(*b*) Is it a fact that the Women's Advisory Board recommended that the present system of conducting special scholarship examination for girls' schools should be discontinued and that examinations should be held in their place uniformly throughout the province under the style of "Primary Final Scholarship Examination" and that they also recommended to increase the number of scholarships for girls to 500?

(*c*) If so, will the Hon'ble Minister be pleased to state if he has taken or intends to take any steps to give effect to these important recommendations of the Women's Advisory Board? If so, what are they? If not, why not?

(*d*) Will the Hon'ble Minister be pleased to state what steps he has taken or intends to take for physical training and medical examination of girls in the primary stage. Does he intend to organise a suitable agency for encouraging primary schools to make arrangements for physical training for girls? If not, why not?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): (*a*) The total number of existing primary preliminary and primary final scholarships is 165 and 98 respectively. There is no primary final public examination for girls.

(*b*) Yes.

(*c*) Steps have been taken to give effect to these recommendations. In the Revised Curriculum for Primary Schools in Bengal provision has been made for a departmental examination at the end of class IV, both for boys and girls. As regards increase in the number of scholarships, the question is being considered.

(*d*) In the Revised Curriculum for Primary Schools in Bengal, provision has been made for physical training in primary schools. It is not proposed to introduce medical examination of girls in the primary stage.

Tour of Hon'ble Ministers during exodus to Darjeeling.

168. Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister in charge of the Finance Department please state how many times each of the Ministers has gone out on tour from Darjeeling during the last summer and autumn exodus and what was the nature of business done by them during these tours by each of the Ministers?

MINISTER in charge of the FINANCE DEPARTMENT (the Hon'ble Mr. H. S. Suhrawardy): A statement is laid on the table. There was no summer exodus.

Statement referred to in the reply to question No. 168.

Department.	Number of times Hon'ble Ministers went on tour from Darjeeling during the autumn exodus, 1939.	Nature of business done by Hon'ble Ministers during the tour.
Revenue ..	Twice ..	Official.
Education ..	Nil ..	..
Co-operative Credit and Rural Indebtedness.	Twice ..	Official.
Forest and Excise ..	Nil ..	..
Judicial ..	Nil ..	..
Communications and Works ..	Once ..	Official.
Finance ..	Hon'ble Minister did not move up to Darjeeling during the autumn exodus.	..
Public Health and Local Self-Government.	Three times ..	Official.
Agriculture and Industries ..	Ditto ..	Do.
Commerce and Labour ..	Once ..	Do.
Home ..	Three times ..	Do.

Visit to Comilla by Ministers.

169. Mr. LALIT CHANDRA DAS: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether it is a fact that in the first week of October, 1939, the Hon'ble Chief Minister with other Ministers visited Comilla? If so, who were the other Ministers who accompanied him?

(*b*) Was that visit demanded in the name of the Moslem students and members of the Moslem League Party in that town?

(*c*) Is it a fact that as the train steamed in carrying the Ministers, they were greeted with the slogans "Allaho Akbar" and "ছাত্রের দাবী মানতে হবে"?

(*d*) Is it a fact that the object of that visit was to cheer up the Moslem League communalists of Comilla and to indicate the Ministers' displeasure against the local authorities for having taken action against them in connection with what happened on the morning of the 25th September last when Dr. Shyama Prosad Mukherji, M.L.A., ex-Vice-Chancellor of the Calcutta University, with his party visited the local college on invitation?

(*e*) What was the purpose of the Hon'ble Ministers' visit to Comilla?

(*f*) What was the total expenditure incurred by the Government on travelling and other allowance charges of those Ministers on account of that visit?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) The Hon'ble the Chief Minister visited Comilla in the first week of October, 1939, but no other Hon'ble Minister accompanied him. The Hon'ble Nawab Bahadur of Dacca and the Hon'ble Mr. H. S. Suhrawardy met the Hon'ble Chief Minister in Comilla later.

(*b*) The answer is in the negative. There was no question of demand by anybody.

(*c*) Slogans like, "Allaho Akbar" are shouted wherever Ministers go. As regards the Bengali slogan, the allegation is incorrect.

(*d*) The answer is emphatically in the negative. All the allegations made are untrue.

(*e*) The tour was undertaken in the course of official duties.

(*f*) The figures so far available amount to Rs. 852-9. The charges for train and steamer fares which have not yet been received from the Railway and Steamer authorities will have to be added to this figure.

Mr. LALIT CHANDRA DAS: Arising out of answer (*b*), will the Hon'ble Minister be pleased to state the nature of the official duties which took the three Hon'ble Ministers to Comilla in the first week of October?

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, Hon'ble Ministers go on official tours generally, and in this particular case there was also some incident that had taken place and they felt that their presence would help in appeasing the situation that had arisen there.

Mr. LALIT CHANDRA DAS: Is the incident referred to the same as the one that took place when Dr. Shyama Prosad Mukherji visited the Victoria College there?

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes, Sir.

Mr. LALIT CHANDRA DAS: Arising out of answer (*b*), if there was not a demand, was any request sent out from Comilla, on behalf of the Muslim League, requesting the Hon'ble Ministers to go to Comilla?

The Hon'ble Khwaja Sir NAZIMUDDIN: I have no information on the point, Sir.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state what was the correct slogan if it is not the slogan "ছাত্রের দাবী মানতে হবে"?

The Hon'ble Khwaja Sir NAZIMUDDIN: There was no question of any slogan of that kind.

Mr. LALIT CHANDRA DAS: The answer (*c*) says "the allegation is incorrect." All that I want to know is regarding the Bengali slogan "ছাত্রের দাবী মানতে হবে"! If the allegation is incorrect may I know from Government what the allegation is with respect to that slogan?

The Hon'ble Khwaja Sir NAZIMUDDIN: Government assert that there was no slogan of the kind mentioned by the honourable member.

Activities of the Price-Controlling Board.

170. Mr. BANKIM CHANDRA DATTA (on behalf of Mr. Shrish Chandra Chakraverti): (*a*) Will the Hon'ble Minister in charge of the Commerce and Labour Department be pleased to state the activities of the Price-Controlling Board appointed by the Bengal Government, and what effective measures were taken or have been taken by the Government according to the advice of the said Board?

(*b*) Will the Hon'ble Minister be pleased to state the number and names of firms prosecuted by the Government for suppressing profiteering under rule 81 (*2*), (*6*) of the Defence of India Rules?

(*c*) If so, what is the number and what are the names of the firms and their owners?

MINISTER in charge of the COMMERCE and LABOUR DEPARTMENT (the Hon'ble Mr. H. S. Suhrawardy): (*a*) It is now common knowledge that immediately on the declaration of war, prices rose abnormally. Government closely watched the course of prices and took all possible steps to prevent profiteering so that excessive rise might not cause hardship to the people. A Chief Controller of Prices was appointed and an Advisory Committee was set up with representatives of trade, industry, labour and the consuming public. This body has met from time to time, and has given the closest attention to the various questions that have arisen and tendered valuable advice to the Chief Controller of Prices in his rather difficult task. This Committee also appointed several sub-committees to which persons having long experience in their particular trade or industry were invited for examination of prices of such articles as dyestuffs, medicines and paper. Government would take this opportunity of expressing their appreciation to the members of the Advisory Committee as well as the co-opted members of the sub-committees who have given their most valuable time in this public cause.

The control has so far been unified. Till about the end of November last, a statement of wholesale and retail prices of articles of common use prevailing in Calcutta was published periodically and circulated to the districts so that uniformity of prices might be obtained, of course having full regard to different rates of transport cost in different districts and additional profits which local conditions might warrant. The price of salt had been fixed as early as 29th of September, 1939. From the 5th of December last, periodically a statement of maximum prices of different indigenous foodstuffs (excluding rice) and such other necessities as matches, Java sugar and coconut oil was published. The price of kerosene oil and petrol had been fixed by the Government

of India. These price lists are sent on to the districts, so that the District Magistrates, who are also the District Controllers of Prices, may fix their local prices on the basis of these prices.

About the middle of December it was found necessary to fix the maximum prices of certain principal medicines and medical goods, and a list thereof was published on 22nd December, 1939.

(*b*) and (*c*) Up to the end of January last eighteen prosecutions against firms were instituted in the Calcutta area by the Controller of Prices, as per details given in the statement placed on the table.

The district figures are not available.

Statement referred to in the reply to question No. 170.

Name of firm.	Name of owner.
(1) Messrs. Calcutta Chemical Co., Ltd.	(*a*) Mr. K. B. Das, (*b*) Mr. B. N. Moitra } Managers.
(2) Messrs. Chimanlall Hemraj ..	Sew Narayan Soni.
(3) Mr. Rash Bihari Ghosh, Hardware Merchant.	9, Clive Street, Calcutta.
(4) Tilak Medical Hall, 84/2, Grey Street, Proprietor Janaki Nath De.	Radhika Mohan Singha (Salesman).
(5) Biswanath Show (Kerosene), 3, Grant Street, Proprietor Biswanath Show.	Salesman.
(6) Raja Ram & Co. (Medical), 37, Grant Street, Proprietor B. Raja Ram.	Kapil Muni Misra (Salesman).
(7) New Medical Union (Medical), 72/A, Ashutosh Mukherji Road.	Suresh Chandra Bhattacharyya (Salesman).
(8) Ghosh & Bros. (Medical), 128/3A, Cornwallis Street, Proprietor S. C. Ghose, L. M. Ghose and G. C. Ghose.	Tarak Nath Dutt (Salesman).
(9) The Modern Pharmacy (Medical), 25/2, Beliaghata Main Road.	Hiralal Chandra (Salesman).
(10) Fancy Stores (Medical), 15, Upper Circular Road.	S. C. Das (Salesman and Proprietor).
(11) O. K. Stores (Medical), 73, Dharamtolla Street, Proprietor N. C. Bhattacharjya.	R. C. Bhattacharyya (Salesman).
(12) Daw Son & Co. (Medical), 115, Lower Circular Road.	Durjya Dhan Patra (Salesman).
(13) Sankar Pharmacy (Medical), 243, Chittaranjan Avenue, Proprietor Dr. D. N. Dey.	Sudhansu Bikash Roy Chaudhury (Salesman).
(14) Messrs. George Bros. (Medical), Entally Market.	F. George (Salesman and Proprietor).

Name of firm.	Name of owner.
(15) Calcutta Stores (Medical), Entally Market.	Prafulla Kumar Ghosh (Salesman).
(16) Relief Hall (Medical), 65, Garden Reach Road, Proprietor Dr. S. C. Chatterji.	Netai Charan Hazra (Salesman).
(17) B. Mewalal & Co. (Medical), 40, Free School Street, Proprietor B. Mewalal.	B. Mewalal (Salesman).
(18) Burman & Co. (Medical), 81, Cossipore Road, Proprietor K. H. Burman.	J. N. Burman (Salesman).

Replies to questions of the Current Session.

Reading of Quoran in Maktabs.

7. **Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN:** Will the Hon'ble Minister in charge of the Education Department kindly state—

(*a*) if he is aware that the reading of the *Quoran* was compulsory in all Maktabs before the advent of the present Government in Bengal;

(*b*) if he is aware that it is no longer compulsory for Muslim boys and girls to learn the reading of the *Quoran* in the free primary schools;

(*c*) if he is aware that Muslim guardians have in consequence become very apprehensive that their wards will not have the foundation of religious education properly laid if arrangements be not made for teaching of the *Quoran* in free primary schools where Muslim pupils get education; and

(*d*) what is his policy regarding religious education of Muslim boys and girls in free primary schools?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): Steps are being taken to collect the information which is not yet available.

Government grant to Visva-Bharati.

8. **Mr. KAMINI KUMAR DUTTA:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state if it is a fact that the Government of Bengal in the Department of Education have issued instructions to the Director of Public Instruction not to

accord administrative sanction to some of the grants to educational institutions which were passed by the Assembly during the last Budget Session?

(*b*) Is it a fact that the grant made in favour of the Visva-Bharati, Santiniketan, for educational activities has not yet been accorded administrative sanction with the result that the money could not be utilised by the said institution; If so, will the Hon'ble Minister please state the reasons for this step in the case of the Visva-Bharati?

(*c*) In regard to what other items under this head administrative sanction has been withheld although the Budget allotments relating thereto had been passed by the Assembly?

(*d*) Is it true that administrative sanction to grants made to the educational institutions referred to in paragraph (*a*) above has been withheld pending final decision in regard to them by the Muslim League Party in the Assembly?

(*e*) If not, will the Hon'ble Minister please state the reasons why the sums of money budgeted for and granted by the Assembly as far back as March, 1939, should not have been made available yet to the educational institutions concerned?

(*f*) Will the Hon'ble Minister be pleased to state the number of Hindu educational institutions which have been deprived of the grants approved by the Assembly during the last Budget Session, on account of the withholding of administrative sanction thereto?

(*g*) Has any Muslim educational institution suffered in a similar manner? If so, what is their number?

(*h*) Will the Hon'ble Minister please state if the money sanctioned by the Assembly during the last Budget Session in favour of the *Azad* newspaper been permitted to be drawn by its Editor, Maulana Akrum Khan? If so, when was the money drawn by him?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): Steps are being taken for preparation of the reply which is, I regret to say, not yet ready.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state if the information sought for relates to the action of the Hon'ble Minister for Education himself?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No, Sir, that depends on certain administrative considerations, and information has to be collected with reference to those facts in the department and outside the department.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state regarding clause (*a*) of my question, viz., whether instructions have been "issued to the Director of Public Instruction not to accord administrative sanction" and if it is not a matter to which the Hon'ble Minister himself is in a position to give a reply within the shortest possible time?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, as I have stated in the reply, the Chief Minister is collecting information and a full reply to all these questions would be given. So, it is difficult for me at this stage to answer all these questions piecemeal.

Mr. KAMINI KUMAR DUTTA: Surely, the Hon'ble Minister can at least give a reply to the categorical question in sub-clause (*d*) at once—is it not a fact that administrative sanction to these grants has been withheld?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It is no question of withholding. Probably the matter is being deferred on certain grounds and unless the facts are placed before the House, I do not think it is fair for anyone to draw any inference.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state whether the reply to the question asked in sub-clause (*d*) is at all a matter of inference or, is it a matter to which a categorical reply can be given at once?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I have nothing further to add. I hope I have made it perfectly clear that information is being collected, and as soon as it is done replies to all the questions put by the honourable member would be given by the Hon'ble Chief Minister.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state if it is not a fact that in respect of the matters on which information has been sought for here, it can be collected from the Secretariat and no time would be required as in the case of other matters of which information is to be gathered from the mufassil?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, that is an inference to which I cannot subscribe.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state whether all the information asked for here are available in the Secretariat?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No, Sir, I do not think so.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state whether the Hon'ble Minister is in a position even now to give any reply to sub-clause (*e*)?

Mr. PRESIDENT: Order, order. I notice the difficulty of the Hon'ble Minister who is answering for the Hon'ble the Chief Minister, who is unfortunately absent to-day. If those Hon'ble Ministers who are not likely to be present inform me of this a little earlier, I shall postpone questions relating to their departments for being answered on the next day or on any subsequent day. I think this practice would be followed in future.

The Hon'ble Khwaja Sir NAZIMUDDIN: May I submit to you, Sir, that it is under your advice that we have followed this procedure, viz., that whenever a question is due for answer but could not be replied, we put in a statement to the effect that steps are being taken to collect the information which is not yet available.

Mr. PRESIDENT: Yes, that is correct.

The Hon'ble Khwaja Sir NAZIMUDDIN: It is presumed that after this information is communicated to the House, there would be no supplementary questions, and I do not think, Sir——

Mr. PRESIDENT: The difference in the present case is this. The Leader of the Opposition believes that the Hon'ble Minister himself could answer in a second some of the points raised here, viz., whether the Chief Minister himself asked the Director of Public Instruction not to accord administrative sanction to some grants intended for some institutions. He was pressing that point repeatedly. In similar questions if an honourable member felt that the Minister in charge of the Department would be in a better position to reply but unfortunately could not be present on a particular day, I shall certainly postpone that particular question and take it up the next day. I desired that on the date fixed there should be an answer of some sort. That is quite true.

The Hon'ble Khwaja Sir NAZIMUDDIN: Therefore, Sir, it being quite in line with the convention created by you, there can be no supplementary questions, when an *ad interim* statement is made.

Mr. PRESIDENT: I quite agree with you, but I am speaking of particular questions like this. If the answer is ready, the answer will certainly be there; but where the answer is not ready, the Hon'ble Minister concerned has to put in a statement that the answer is not ready and it is assumed that after that will be no further questions. The difficulty is that the Leader of the Opposition lays stress on the point that the Hon'ble Minister in charge of the Department could answer straightway without referring to any paper whether he himself issued any order to the Director of Public Instruction. He could simply say "Yes," or "No."

Mr. KAMINI KUMAR DUTTA: May I suggest that as to-day I have got no reply to my questions, the Hon'ble Minister will kindly arrange to give the answers within a reasonably short time?

Mr. PRESIDENT: In the answer it has been said that "steps are being taken" to prepare the answers.

Mr. KAMINI KUMAR DUTTA: I suggest that the answers may be given within a reasonably short time.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir, we accept that suggestion.

Controversy between the Government and the Public Service Commission.

9. Rai Bahadur SURENDRA NARAYAN SINHA: Will the Hon'ble Minister in charge of the Home Department be pleased to state if it is a fact that the Bengal Public Service Commission and the Government of Bengal have failed to come to an agreement over the question of fixing the minimum standard for passing competitive examinations held for recruitment to the Bengal Civil Service?

The Hon'ble Khwaja Sir NAZIMUDDIN: No.

Training abroad in Public Health problems.

10. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: (*a*) Will the Hon'ble Minister in charge of the Public Health and Medical Department kindly state the names of gentlemen sent abroad at Government expense for higher education and training in Public Health problems during the last 10 years, with educational and special qualifications of each of them?

(*b*) Does the Government contemplate sending any candidate for such training in the current or next year?

MINISTER IN charge of the PUBLIC HEALTH and MEDICAL DEPARTMENT (the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): (*a*) A statement is laid on the table.

(*b*) Yes, if the international situation permits.

Statement referred to in the reply to question No. 10.

(*i*) Dr. G. L. Batra, M.B., CH.B. (Edin.), D.P.H., the then Assistant Director of Public Health, Burdwan Circle, was granted leave for 12 months from the 1st August, 1930, namely, leave on average pay for 8 months and study leave for the remaining period for study of Industrial Hygiene at the Harvard University.

(*ii*) Dr. S. N. Sur, M.B., D.P.H. (Lond.), D.T.M. & H. (Lond.), Assistant Director of Public Health, then in charge of Malaria Research, was granted leave on average pay for 8 months from the 15th December, 1929. During this period he was given study leave allowance from January to March, 1930, while he was studying Epidemiology and Vital Statistics in the School of Tropical Medicine, London.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSSAIN: Was no Muhammadan candidate considered suitable to be sent for training abroad?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: I think the honourable member understands that here two Assistant Directors of Public Health applied for study leave. It is not a question for Government to say if there is a suitable Muhammadan or not. The question is whether any Muhammadan applied for leave. If he had done so, then it would have been possible for Government to say whether he was suitable or not for being granted study leave.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSSAIN: May I take it that in future if suitable Muhammadans apply and be considered fit, they will be granted study leave?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: Certainly. If suitable Muhammadans apply, they will be given study leave.

Sinking of tube-wells by the District Boards.

11. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department kindly state if he is aware that the cost of sinking tube-wells has gone up considerably since the outbreak of the present European War?

(*b*) Is he aware that in consequence the District Boards which had undertaken the sinking of tube-wells in accordance with the terms of the Government loan scheme, are not being able to proceed with the work of the Loan Fund?

(*c*) Is he aware that the District Boards are short of funds even for keeping the existing wells in their jurisdiction in proper state of repairs?

(*d*) Will he kindly state what the Government propose to do in solving the problem of water-supply in the rural areas under the changed circumstances?

MINISTER in charge of the LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): (*a*) Yes.

(*b*) The attention of the hon'ble member is drawn to answer to (*e*) of question No. 1 of the current session.

(*c*) No. The recent reports from the districts show that a majority of the District Boards is maintaining the tube wells in order.

(*d*) The hon'ble member is referred to answer to (*f*) of question No. 1 of the current session. I may add that the changed circumstances will be taken into consideration when a final decision is made.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSSAIN: In view of the changed circumstances, does the Hon'ble Minister consider it necessary that a Committee should be formed to enquire into the problem of water-supply which would be most suitable for this province in view of the fact that prices of rice and other things have gone up very much and we do not know when they are likely to come down?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: I have already explained in reply to a similar question which was put to me in this House that Government have already asked the District Boards and Rural Water-supply Committees to let them have a programme and after that is received Government will consider if public opinion will have to be taken.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is the Government aware that tube-wells go out of order within 5 years and, if so, will it not be a huge waste of money if we go in for more tube-wells?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: As I have already explained formerly in this House, according to the information of Government tube-wells require to be repaired after ten years. I am not aware of the fact that tube-wells go out of order within five years. In some cases it may be so due to mishandling.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is it a fact that the Dacca District Board substituted ferro-concrete wells for tube-wells?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: I am not aware of it.

Re-excavation of certain khals of Chittagong.

12. Khan Sahib ABDUL HAMID CHOWDHURY (on behalf of Mr. Nur Ahmed): (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state if it is a fact that for want of timely re-excavation of the Kerunja Garutala *khal* and the diversion of its mouth in the Patiya thana of Chittagong heavy damage has been caused and is being caused to the paddy crop in the villages of Mansha, Banigram, Harinkhine, etc., during the rainy season amounting to more than a lakh of rupees a year?

(*b*) Is it a fact that for want of proper arrangements for the regular flow of rain water from those villages, the agriculturists numbering more than fifty thousand suffer annual loss of more than a lakh of rupees year after year, and that they lose about 70 to 90 per cent. of the *aus* crop and also 80 to 98 per cent. of *aman* crop?

(*c*) Is it a fact that the people of these villages have represented their grievances to the Hon'ble the Chief Minister when he visited Chittagong in January last and also to the local Circle Officer and other officials?

(*d*) If so, what steps have been taken by Government to get this *khal* re-excavated with a view to giving necessary relief to the poor villagers of these villages? If not, why not?

(*e*) Is it a fact that the villages of the Banskhali thana of Chittagong borders on the Bay of Bengal and stands in constant danger of being flooded by saline water from the Bay?

(*f*) Is it a fact that considerable damage to properties and crops was caused during the floods in August last for want of timely repair of the embankment maintained by private owners?

(*g*) Is it a fact that some portion of the embankment constructed to keep off saline water is maintained by Government and other portions by private persons?

(*h*) Is the Hon'ble Minister aware that the excavation of a canal from the Bharasanga up to the Peskarhat canal is a long-felt want for want of which the people of Anwara, Banskhali, etc., who use these canals are suffering considerably?

(*i*) Is it a fact that the excavation of the proposed canal will result in shortening the distance of journey and will greatly facilitate the boat traffic between Banskhali, Anwara and other parts of the interior and the district headquarters? If so, what steps has the Government taken or is about to take to excavate the proposed canal? If not, why not?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Sris Chandra Nandy, of Cossimbazar): With your permission, Sir, I propose to reply to question Nos. 12 and 13 together.

I am making enquiries and will give the information desired in due course.

Flood in Chittagong.

13. Mr. NUR AHMED: (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state if it is a fact that the villagers of Hathazari, Rauzan and Faticksari thanas of the district of Chittagong suffer heavy loss every year owing to annual inundation and other causes, such as the silting up of the Dhurang *khal*, the zig-zag course of the river Halda and insufficient number of bridges on the Hathazari-Rauzan Road?

(*b*) Is it a fact that nearly five lakhs of villagers are affected in those areas by such recurring inundation?

(*c*) Has the District Engineer of Chittagong prepared an estimate of Rs. 57,000 only for the re-excavation of the Dhurang *khal* and has the Executive Engineer of the Dacca Circle also prepared an estimate of Rs. 20,000 for straightening the ziz-zag course of the Halda river? If so, has the Government sanctioned these estimates? If not, why not?

(*d*) Is it a fact that the proposal of construction of further bridges on the Hathazari-Rauzan Road is still under the consideration of the Government? If so, has the Government arrived at a final decision in these matters? If not, when is the Government expected to finally decide these matters?

(*e*) Is it a fact that the Chief Minister and other Ministers have given assurance to the people of these thanas about giving effect to the abovementioned projects? If so, when does the Government intend to carry out these projects?

(*Vide* reply to question No. 12.)

Deterioration of Live-stock in Bengal.

14. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: (*a*) Is the Hon'ble Minister in charge of the Agriculture Department aware that the quality of the live-stock in Bengal is steadily deteriorating for want of facilities about pasture lands?

(*b*) Is he aware that some Marwari gentlemen of Calcutta have established a Live-Stock Association with the express intention of improving the live-stock of the Province by arranging pasture lands?

(*c*) Will he kindly state if the Government has under contemplation any scheme for increasing and improving the facilities in regard to pasture in this Province?

(*d*) Is he aware that more than 25 per cent. of the arable land in Bengal is still uncultivated in spite of the pressure of population on land and that there is plenty of room for extending the facilities about pasture grounds?

MINISTER in charge of the AGRICULTURE DEPARTMENT (the Hon'ble Mr. Tamizuddin Khan): (*a*) There has been a deterioration of the live-stock in Bengal but not for want of facilities about pasture lands. It has been due to bad management and malnutrition or starvation which cannot be remedied by establishment of pasture lands. The remedy lies in growing fodder-crops, stall-feeding and better conservation of straw and fodder.

(*b*) The Association is not recognised by Government and I have no information regarding its activities.

(*c*) The hon'ble member is referred to the answer given to the question No. 23 by Mr. Nur Ahmed answered on 5th May, 1939, a copy of which is laid in the Library.

(*d*) No. The area of uncultivated land definitely known to be culturable is only about 143,000 acres scattered throughout the Province.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is the Hon'ble Minister aware that there are 11 million acres of non-culturable lands in Bengal which could be converted into pasture lands?

The Hon'ble Mr. TAMIZUDDIN KHAN: I am not aware of that.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Does the Hon'ble Minister mean to say that pasture land is not necessary for the cattle of this province?

The Hon'ble Mr. TAMIZUDDIN KHAN: To provide pasture land is unprofitable under present conditions.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Does the Hon'ble Minister mean to say that if the lands which are lying fallow be converted into pasture land, they would not be profitable?

The Hon'ble Mr. TAMIZUDDIN KHAN: I have said in my answer to question (*d*) that the uncultivated lands that are lying fallow are scattered throughout the province and most of them are not suitable for being converted into pasture land?

Mr. PRESIDENT: Order, order. You may ask for information but no argument is permissible.

Notices of amendments.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I have the honour to give notice that at the current session of the Bengal Legislative Council I shall move by way of amendment to the motion for reference to a Select Committee of the Bengal Patni Taluks Regulation (Amendment) Bill, 1939, sponsored by Khan Saheb Abdul Hamid Chowdhury that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st December, 1940.

I have the honour also to give notice that during the current session of the Bengal Legislative Council, I shall move by way of amendment to the motion for consideration of the Bengal Land Revenue Sales (Amendment) Bill, 1938, sponsored by Khan Bahadur Saiyed Muazzamuddin Hosain that the Bill be referred to a Select Committee consisting of—

(1) Khan Bahadur Abdul Karim,
(2) Khan Saheb Abdul Hamid,
(3) Khan Bahadur Saiyed Muazzamuddin Hosain,
(4) Khan Bahadur Naziruddin Ahmed,
(5) Mr. Kader Baksh,
(6) Mr. E. C. Ormond,
(7) Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,
(8) Mr. Kamini Kumar Dutta,
(9) Mr. Naresh Nath Mukherjee,
(10) Rai Manmatha Nath Bose Bahadur, and
(11) the mover,

with instructions to submit their report by the 30th April, 1940. The number of members whose presence shall be necessary to constitute a quorum shall be five.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I have the honour to give notice that during the current session of the Bengal Legislative Council, I shall move by way of amendment to the motion for reference to a Select Committee of the Bengal Non-agricultural Tenancy Bill, 1937, sponsored by Khan Bahadur Saiyed Muazzamuddin Hosain that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st December, 1940.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I have the honour to give notice that during the current session of the Bengal Legislative Council, I shall move by way of amendment to the motion for reference to a Select Committee of the Bengal Emergency Rent Remission Bill, 1938, sponsored by Khan Bahadur Saiyed Muazzamuddin Hosain that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st December, 1940.

The Hon'ble Nawab Khwaja HABIBULLA Bahadur, of Dacca: I have the honour to give notice that I desire to move in the current sessions of the Bengal Legislative Council, the following amendment to Mr. Humayun Kabir's motion that his Bill for the amendment of the Bengal Local Self-Government Act, 1885, be referred to a Select Committee, viz.—

that the Bill be recirculated for the purpose of eliciting further opinion thereon by the 31st December, 1940.

The Hon'ble Nawab Khwaja HABIBULLA Bahadur, of Dacca: I have the honour to give notice that I desire to move in the current sessions of the Bengal Legislative Council, the following amendment to Rai Surendra Narayan Sinha Bahadur's motion that his Bill for the amendment of the Bengal Municipal Act, 1932, be referred to a Select Committee, viz.—

that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st December, 1940.

The Hon'ble Nawab Khwaja HABIBULLA Bahadur, of Dacca: I have the honour to give notice that I desire to move in the current sessions of the Bengal Legislative Council, the following amendment

to Mr. Nur Ahmed's motion that his Bill for the amendment of the Bengal Municipal Act, 1932, be referred to a Select Committee, viz.—

that the Bill be recirculated for the purpose of eliciting further opinion thereon by the 31st December, 1940.

The Hon'ble Nawab Khwaja HABIBULLA Bahadur, of Dacca: I have the honour to give notice that I desire to move in the current sessions of the Bengal Legislative Council, the following amendment to Mr. Nur Ahmed's motion that his Bill for the amendment of the Bengal Food Adulteration Act, 1919, be referred to a Select Committee, viz.—

that the Bill be recirculated for the purpose of eliciting further opinion thereon by the 31st December, 1940.

The Hon'ble Mr. TAMIZUDDIN KHAN: I beg to give notice that at the current sessions of the Bengal Legislative Council I shall move by way of amendment to the motion for consideration of the Bengal Water Hyacinth (Amending) Bill, 1938, sponsored by Khan Bahadur Saiyed Muazzamuddin Hosain that the Bill be referred to a Select Committee consisting of—

(1) Khan Bahadur Saiyed Muazzamuddin Hosain,
(2) Mr. E. C. Ormond,
(3) Mr. Kamini Kumar Dutta,
(4) Rai Bahadur Radhika Bhusan Roy,
(5) Mr. Nur Ahmed,
(6) Khan Bahadur Maulvi Ataur Rahman,
(7) Khan Bahadur Maulvi Razzakul Haidar Chowdhury,
(8) Mr. Mukhlesar Rahman,
(9) Khan Bahadur Mohammad Ibrahim,
(10) Mr. Khorshed Alam Chowdhury, and
(11) the mover,

with instruction to submit their report by the 30th June, 1940, and that the quorum of the Select Committee be fixed at five.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I beg to give notice of the following amendment to the motion of Khan Bahadur Saiyed Muazzamuddin Hosain that the Bengal Agricultural Debtors (Amendment) Bill, 1938, be referred to a Select Committee at the session of the Bengal Legislative Council commencing on the 16th February, 1940—

that the Bill be circulated for the purpose of eliciting public opinion thereon by the 31st December, 1940.

Laying on Table of the Bengal Finance (Amendment) Bill, 1940, as passed by the Bengal Legislative Assembly.

SECRETARY: Sir, the following message has been received from the Bengal Legislative Assembly:—

MESSAGE.

The Bengal Finance (Amendment) Bill, 1940, as passed by the Bengal Legislative Assembly at its meeting held on the 15th February, 1940, has been duly signed by me and is annexed herewith. The concurrence of the Bengal Legislative Council to the Bill is hereby requested.

M. AZIZUL HUQ,

Speaker,

Bengal Legislative Assembly.

CALCUTTA:

The 16th February, 1940.

Sir, I herewith lay on the Table the Bengal Finance (Amendment) Bill, 1940, as passed by the Bengal Legislative Assembly at its meeting held on the 15th February, 1940.

Notice by the Hon'ble Finance Minister, regarding Bengal Finance (Amendment) Bill, 1940.

The Hon'ble Mr. H. S. SUHRAWARDY: I have the honour to give notice that I propose to move in the current session of the Bengal Legislative Council that the Bengal Finance (Amendment) Bill, 1940, as passed by the Bengal Legislative Assembly, be taken into consideration and for amendments seven days' notice is necessary.

I request that you will be pleased to accept short notice amendments. I propose that if any amendment for circulation or reference to Select Committee be moved, I will oppose it.

Mr. PRESIDENT: Mr. Kamini Kumar Dutta, have you any objection to this?

Under the Bengal Legislative Council Procedure Rules, ten days' notice is necessary before it is taken up for consideration and for amendments seven days' notice is necessary.

Mr. KAMINI KUMAR DUTTA: Sir, the matter being a trifling one, we leave it to the Hon'ble Minister to decide.

Mr. PRESIDENT: So far as the Chair is concerned, it will have no objection to take it up earlier. So, it is settled that this Bill will be taken up for consideration on the 28th instant. Under the rules though seven days' notice is necessary for amendments, my office will accept notice of amendments till Friday, 3 p.m., so that the consideration may be taken up on the 28th.

Mr. NARESH NATH MOOKERJEE: Before we pass on to the discussion of the Budget, may I submit, Sir, that in consideration of the numerical strength of this side of the House, at least two members on the Select Committee should be from the Congress? But to-day some of the motions containing list of members comprising the personnel of the Select Committees moved by the Hon'ble Ministers contain the name of only one member from the Congress Group. May I, Sir, through you, request Government to give us the requisite number of seats on the Select Committees in future?

The Hon'ble Khwaja Sir NAZIMUDDIN: May I have my say, Sir? This is a matter which should be decided between the Whips of the different parties and if they fail to come to a decision, then only they should bring it to the notice of the Chair.

Mr. PRESIDENT: It is certainly for the parties concerned to settle it amongst themselves, but the President may also intervene under certain circumstances. Under Rule 56(2) of our Rules it is stated:

"The Minister in charge of the Department to which a Bill relates, the member who introduced the Bill and the other members of the Select Committee shall be named as members in the motion proposing the appointment of the Committee in such a manner as to represent, as far as possible, the different parties in the Council."

If I find that there is an abuse of this rule, I shall certainly interfere. But this is not the stage when this question should be raised. I think the Opposition parties and their leaders should consult with the Government party and its leader in order to determine the quota of adequate representation of each party and it should be possible to settle this matter amicably.

Mr. KAMINI KUMAR DUTTA: Sir, may I just make a request that whenever any Bill is sought to be introduced, before the actual constitution of the Select Committee is settled, the Whip of the Opposition also should be consulted not only as to the number but also as to the personnel, as occasions often arise when a change of members is necessitated.

Mr. PRESIDENT: Order, order. It is not so much for the President as for the members that a convention should be established amongst the parties in this House. Out of eleven members which might comprise a Select Committee, Government should have at least five, the Congress may have three, the European Group and the Progressive Group one each, and from the unattached parties there may be one. This is only my suggestion and nothing else. And further there should be a convention for the Government Whip in the case of Government Bills, and in the cases of other Bills also, to ask the Whips of the respective parties to select their own men. This is not a matter for the mover. Of course, he has the right to readjust but the general convention is that even in the case of non-official Bills, the Whip of the respective parties should consult the Government Whip as to who should represent the Government. In doing this he should not be guided by his own wishes but by the wishes of the party to which he belongs, though it is well-known the members are represented by their respective Party Whips. And that is the general convention that is observed. There is no definite rule on the subject. It is for the parties to see whether they should follow this convention.

Mr. MESBAHUDDIN AHMED: May I know, Sir, which Select Committee the honourable member is referring to?

Mr. NARESH NATH MOOKERJEE: I mean the Select Committee referred to by the Hon'ble Minister to-day.

Mr. PRESIDENT: There were notices of several Select Committees with the Congress, the main Opposition, not being properly represented on them.

The House will now proceed with the general discussion on the Budget.

General Discussion on Budget.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Mr. President, Sir, that the Budget as presented does not disclose initiation of any ambitious scheme is admitted by the Finance Minister himself, and this he ascribes to financial stringency and necessity for precaution in view of war conditions in Europe. We, of course, realize the

necessity for precaution, but we think the Budget has been rather a bit too conservative and there are some items which call for comments. I propose to make comments not for criticism's sake but for offering constructive suggestions which may be considered by the Ministry in due course.

Sir, first of all, I shall take up the expenditure under the head "Education." The Finance Minister said that 5 lakhs for primary education in the cess-paying districts has been allotted this year, as was done last year. But, that this amount is hopelessly inadequate has not been fully realized. Sir, last year when this 5 lakhs was allotted there were only three districts in which free primary education had been introduced. As a result of gradual expansion the expenditure in those three districts will go up substantially. Besides, I believe such schemes had been taken up in other districts also. Therefore, Sir, instead of 5 lakhs I think near about 20 lakhs will be absolutely necessary if this free primary education which has been introduced in the districts, is to go on. Sir, in the district of Mymensingh alone, it has been calculated that this year they will require 4½ lakhs as additional provision if they are to go on with the present number of schools. They have already got about 2,500 schools at the rate of one school for every 2,000 people. Their budget is for 12½ lakhs of which from their cess they expect to get nearly 6 lakhs and Government's ordinary recurring contribution is about 2 lakhs. So another 4½ lakhs is absolutely necessary if they are not to close down the schools, which they have already started. Besides that, Sir, another 1,000 schools will have to be opened if we really want that the number of students in primary schools is to increase. Sir, on account of the geographical difficulties, this standard of one school for 2,000 people will not be suitable everywhere. There are villages with only a population of 300 or 400 and within a radius of two or three miles there are no other villages. For such villages, Sir, you will have to make separate arrangements for schools, and also there are villages which are divided by big rivers and these too require separate arrangements to be made in respect of schools. It has been estimated that for the Mymensingh district alone, they will require another 1,000 schools. So I believe, Sir, that in Mymensingh district alone free primary education, as contemplated under the Act, will cost at least 20 lakhs of which only 6 lakhs is available from the cess and the remainder will have to be met from the Government grant. Sir, I know the financial difficulties of Government, but I want to point out, Sir, that Government ought to have tried this free primary education only in one small district before they took up other districts, in order to ascertain what financial commitments Government will have to undertake. Sir, now that in nine districts free primary education has been started I believe nearly a crore of rupees will probably be necessary for additional provisions like this, and this, no doubt, will be a

very ambitious undertaking. Without arranging for money provision, to give a start to a scheme is nothing but unbusinesslike. But at the same time, Sir, I realize the demand for free primary education and for that, I think, a lesser and more modest scheme Government should have gone in for. Government could have given liberally free studentships to schools for increasing the number of pupils in primary schools. For example, they could have said that every school that could increase the number of students beyond its present strength would get 4 annas for every additional student or something like that; that would have been more suitable and would have been more feasible and we would have been sure in that case of an increase in the number of students in the primary schools. Sir, I am very, very doubtful if these free primary schools, which have been started now, will not have the effect of reducing the existing number of pupils reading in the existing primary schools. So I say, Sir, that before taking further steps in the matter, Government should consider the pros and cons and should modify their policy, tentatively at least, before they come to a final decision about giving a full start to the scheme under the Act.

Sir, in the same way I find that for Debt Conciliation Government has increased the expenditure this year by 5½ lakhs without taking stock if they have got their money's worth returned for the money so far spent, *e.g.*, by spending how much money they have dealt with how many cases or what amount of agricultural debts they have dealt with. What I believe, Sir, is that, after having spent one crore, probably Government will find that they have not touched even the fringe of the problem, that they have not cleared even 5 per cent. of the agriculturists' debts. So in this case also, Sir, I think a stock should be taken before starting Debt Settlement Board after Debt Settlement Board. Moreover, Sir, the utility of these Boards would pass the period of their utility to a very great extent as soon as the Money-lenders Bill which will shortly be passed into law, is given effect to.

Then again, Sir, with regard to the Co-operative Credit Society, I find that the Government is increasing its expenditure on this also, although this department has become very unpopular. Sir, I understand it is the policy of Government now to utilise this Co-operative Society to deal with short-term loans and a few Land Mortgage Banks only. Sir, for short-term loans only, to have the luxury of a Co-operative Department is, I think, very extravagant. Sir, short-term loans can be very well distributed through paid Government officers just like agricultural loans, and the agriculturists could get the money at a cheaper rate of interest because they would get the money direct from Government. Whereas if they get it from the Co-operative Department, the Provincial Bank will charge some interest, the Central Bank will charge some margin and then the Society will charge some before it goes on to the cultivator. So the rate of interest will be more. At

the same time, the cultivator will be in the clutches of the office-bearers of the Society, who, we know from experience, are not always very honest and true men. I think, Sir, that the method of giving direct loan by Government to agriculturists might at least be tried. So, I would ask Government to try this in one thana of every district to begin with, and let them watch the result. If it is found to be not very successful let them give it up. I do not want the Government to hazard themselves for something unknown. As a matter of fact they have tried this agricultural loan business to some extent. Every year Government have been granting Rs. 15 lakhs, 20 lakhs or 30 lakhs as agricultural loan and from what we have heard from the Hon'ble the Finance Minister himself, this loan is realised almost cent. per cent., so there is no fear of Government losing any money in giving agricultural credit direct through their own officers instead of through co-operative bank.

There is another point. If we are to give agricultural loan through co-operative bank, then we will have to give this loan only to the members of the society and at the present moment at best only 20 per cent. of the agriculturist families belong to co-operative societies. The rest have not yet become members of the societies and if they are to be given loans through the co-operative department, then it will take 20 years to organise new co-operative societies through which every agriculturist who requires loan may be given loan.

For these reasons I would urge Government that they should make an experiment in a few thanas. Let it be through their own co-operative officers. Let them not have separate officers. Let them employ co-operative officers and let them make an experiment directly in some of the thanas and find out the result before undertaking anything finally.

Sir, the question of solving the agricultural credit problem has been hanging fire for a very long time, and it is very deplorable to find that although Rs. 13½ lakhs was put down for agricultural loan last year through co-operative societies, this year it has been reduced to Rs. 5 lakhs. In view of the working of the Debt Settlement Boards and the passing of the Money-lenders Act we anticipate that the entire rural credit will dry up. Under these circumstances if instead of increasing the agricultural loan we decrease it to that amount, we do not know what will happen to the agriculturists. We believe it will be a great disaster and probably lands will lie fallow or the agriculturists will be compelled to sell off their lands to non-agriculturists for the purpose of securing money to purchase seeds for cultivating their lands.

As a matter of fact the figures of the Registration Department show that already the sale of lands has increased tremendously in comparison with the sale of the last two years and this is mainly due to want of credit facilities in the rural areas.

I now come to the Public Health Department. Here Rs. 7½ lakhs has been allotted for rural water-supply. So far as that grant is concerned it is all right, but here also we have not got any scheme. We are making some allotments every year in certain districts, but we have not arranged to see that we will be able to maintain the source of water-supply properly. It is not enough to stud the whole country with tube-wells. We must also make sure that they are re-sunk as soon as they go out of order, if we are to solve the problem of water-supply. My proposal is that we ought to have something like Water-supply Insurance Fund on the lines of the Famine Insurance Fund, so that the district boards may have after a certain time a certain amount of contribution or loan for repairing the wells. Without these things we do not know whether after making the people accustomed to use tube-well water we will not have suddenly to stop that source of water-supply, because we have not got sufficient money to repair the tube-wells. In this connection I think Government ought to establish a committee of experts and some representatives of the district boards and definitely decide upon some policy by which they can assure the future water-supply also and not merely the existing one.

We find that the Agriculture and Industries which are the two wealth-producing departments have been treated as niggardly as before. As a matter of fact, the Industries Department has been given one lakh less this year. I think we all know that agriculture has already become a losing concern now and unless 33 per cent. of the population, at least of the agriculturists, are diverted to industries or to some other work, the agriculturists cannot live on agriculture alone. At the same time we have also to increase the yield. Unless we increase the yield per acre, it will be impossible even by diverting 33 per cent. of population to make the agriculturists live on agriculture. We have calculated and found that the average income of a Bengal agriculturist is only Rs. 30 per head per annum and if we take away 20 per cent. at the top who are in better circumstances, the remainder will be left only with a pittance of Rs. 20 per head per annum. This is the situation in which we have been placed in Bengal.

In Japan they are producing 60 maunds per acre. In China the agriculturists are producing 40 maunds. I will not speak of Spain or Italy which grow a still larger quantity, but here in Bengal which is proverbially known to be the most fertile country in the world we produce at best 18 maunds, if not 16. On the authority of Sir George Watt we find that only so far back as 1867 Bengal used to produce rice on an average from 27 to 32 maunds per acre. The land of Bengal

has been deteriorating very fast, but we are still slumbering and have not awakened from our slumber. If we want to save the agriculturists who are the backbone of the country we must make a determined effort to increase the yield of the land by whatever means possible. Government should contribute liberally to the Agriculture Department and bring experts from foreign lands, if possible from Japan or from China, and try to increase the yield per acre of land. We won't believe that Bengal with its proverbial fertility can produce only 18 maunds as against 40 maunds in China and 60 maunds in Japan.

I was quoting Sir George Watt. In his book he mentions that in 1867 the average produce of Bengal, after enquiry, was found to be from 27—32 maunds per acre. It has become now nearly half and still we are not taking any action to arrest the deterioration of land.

Sir, we have passed a resolution that some of our experts should be sent to Japan to find out the cause of high yield there and less yield in Bengal. We do not know if in the detailed budget, any provision has been made for an expert in order to enable him to go to Japan for learning the cause of high yield there.

Coming to the Industries Department I must say that only a sum of Rs. 12 or 13 lakhs for this department is not all what is required. We have not only to look after cottage industries in order to give employment to the agriculturists but we have also to start medium size and large size industries for the benefit of the country, because, as I have said, at least 33 per cent. of the population will have to be diverted to live on industries. We know that it will be an ambitious scheme to industrialise the country and nothing can be done all on a sudden, but at least, I am of opinion, that a start should be made in this direction. An industrial survey was sanctioned two years ago and we have an industrial committee which has been working, but we do not know the result of its labour. We ought to know at least by now what are the possibilities of starting new industries in Bengal, what are the raw materials which go to foreign lands only to come back with prices trebled or four times enhanced. We must make preliminary enquiries to find out all these things, and a provision in the Budget should also be made for the training of our youths in foreign countries. They should be sent in large numbers every year for learning industries which would be possible to start in Bengal.

Another thing I should like to mention in this connection is that Government should give incentive to the industries of this country. If Government are determined to use only India-made articles or Bengal-made articles in their offices in preference to foreign-made articles that will serve the purpose to some extent. Government should also start a propaganda for using home-made articles, so that people may prefer to use them. Unless Government take an active part to industrialise the country, we cannot expect that our country will be turned

into an industrial country all on a sudden. We want Government to consider this and provide at least some money for the preliminaries in connection with industrial and agricultural regeneration of the country.

I welcome the proposal which the Hon'ble the Finance Minister has incidentally made of imposing taxes in future for the benefit of the country. I should only request him that taxes should be of the nature of indirect tax, so that they may not touch the people who will be paying them. An indirect tax is the most suitable tax. If it is paid by the consumer in the shape of sales tax he does not feel the burden of it. He thinks that it is due to fluctuation of market rates. I think the Hon'ble the Finance Minister will consider this and he will earmark the receipts from this tax for industrial and agricultural advancement of the country.

With these words I conclude my remarks.

Mr. J. B. ROSS: Mr. President, Sir, I have much pleasure, on behalf of the European Party in this House, in offering our congratulations to the Hon'ble the Finance Minister on the Budget which he has produced for the ensuing financial year. There is a tendency in abnormal times such as those in which we are now living to regard the quickening of industrial and commercial activity and increased revenues which result therefrom as a normal development and to press on Government to expand their nation-building and other schemes on the assumption that these increased revenues may be regarded as a permanency. It is a matter of satisfaction to this party that the Hon'ble Mr. Suhrawardy has not only not fallen into this error but has pronounced a definite warning as to the inevitable occurrence of a slump in business conditions after the war ends, whenever that might be—a view with which the European Party is in entire agreement.

The Finance Minister is, therefore, to be commended for the caution which he has exercised in producing his first Budget and for the conservative nature of this Budget. In budgeting for a deficit of 57 lakhs on the working for the next year, *plus* a further deficit of 26 lakhs in the capital and debt deposit section, it is satisfactory to note that the expenditure programmed for Education, Public Health, Medical and other nation-building schemes shows an increase over the revised estimates for the current year, the Finance Minister not having found it necessary to curtail the expenditure on these commendable projects because of the fact that he is budgeting for a deficit. I think, however, that the Hon'ble Finance Minister in drafting his Budget has rather underestimated probable receipts under several heads of revenue, notably the jute duty and the provincial share of income-tax. There is little doubt that, under present war conditions and also assuming that these war conditions will remain in force throughout the year, jute exports must show a considerable increase over those for the

year 1939-40, and it is the opinion of those who are prepared to take a view that a further 20 to 30 lakhs of revenue may be looked for from this source over and above the amount already budgeted for.

In the case of income-tax, in spite of the recent pronouncement of the Government of India that railway contributions to the general revenues will not be taken into account when determining allocation of income-tax to the provinces the latter will, I understand, receive a share of the Excess Profits Duty now under the consideration of the Central Assembly, and this should enable the Hon'ble Mr. Suhrawardy to anticipate some margin over his figure of probable income under this head.

It is not, therefore, beyond the bounds of possibility that the anticipated deficit of 57 lakhs may not in fact materialize.

Nevertheless, it is with satisfaction that we note the decision of the Hon'ble Finance Minister not to impose new taxes pending a detailed survey of new sources of revenue.

This is an attitude of caution which we in this group fully appreciate and we venture to express the hope that, as the year progresses, he will not find it necessary to do other than record for future reference any new sources which may be considered suitable.

One point in the Hon'ble Minister's speech when introducing his Budget which should commend itself to all sections of this House is the decision to open a Training Camp for theoretical and practical training of a number of Circle Officers in the problems and practice of rural reconstruction. This is a step in the right direction. There is very little doubt that large sums of money can be frittered away quite uselessly when the personnel responsible for the carrying out of such schemes lack the necessary training, and Government have done well to take note of this. I would go further and recommend that such officers should be compelled to take refresher courses every three years. I have a further suggestion for the consideration of Government, and that is enlightenment by suitable propaganda of the enfranchised rural population on practical politics.

For the last decade these people have been fed fulsomely with the doctrines of debt evasion and confiscation of property until their outlook to-day is that these practices are the natural evolution of responsible Government. As an example, quite recently a prominent Bengal politician was discussing with some of his constituents the implications of "Dominion Status" and "Independence." The people to whom he was speaking were all against Dominion Status on the ground that it postulated a continuance of the British connection and to use their own words, "We won't be able to get possession of the jute mills and coal mines." Propaganda of the right kind spreach amongst these people

would soon educate them towards a healthier perspective of the real benefits to be derived from responsible Government, and I recommend this suggestion for the attention of the Hon'ble Minister who can rely on the support of this party generally on his Budget proposals for 1940-41.

Mr. K. C. ROY CHOWDHURY: Mr. President, Sir, I do not mean to take up much time of the House in discussing the details of the Budget which is presented every year for the atmosphere created is very dry and dull one. As Mr. Ross has pointed out very rightly, that propaganda in industrial areas is necessary for the benefit of the working classes in order to remove their misunderstanding and ignorance on the subject of politics, especially in view of the present issue of "Independence" *versus* "Dominion Status," and I would like to see that the Hon'ble Mr. Suhrawardy provides funds for this purpose. Without any provision for such a scheme, all the enquiries through Police officers and friendly Labour Unions is not of much use. Sir, we have the bitter experience of the communistic campaign launched in the mill areas and their effects, and such is the case in the coalfields in which my friend Mr. Ross is interested. The terrible consequences of such a propaganda, as we see, very often result in the most devastating strikes for no real grievances, accompanied by huge loss of wages and the idleness of the workmen for weeks and months without any relief whatsoever. We have also seen hundreds of jute millhands losing their jobs through this abominable propaganda with no chance of their reinstatement. Such a state of affairs exists in the coalfields, situate though not in Bengal but in the neighbouring places. I therefore request the Hon'ble Mr. Suhrawardy to see if funds can be provided for counter-propaganda in the industrial areas.

Dr. RADHA KUMUD MOOKERJI: Mr. President, Sir, at the outset I wish to offer my congratulations to the Hon'ble the Finance Minister for the extremely business-like manner of his presentation of the Budget for the year 1940-41. My congratulation is also due to the fact that the present Finance Minister has produced the Budget under exceptionally difficult circumstances. And I believe I shall be voicing the opinion of the entire House if I venture to communicate a word of sympathy to him for the arduous duties he has been carrying out under the depression of a dire domestic tragedy, while these duties are further complicated by the circumstances created as a result of the war that is being waged in Europe. It is not for me to quarrel with the details of the Budget. It is impossible for any member of the Legislature who is outside the Government circles to be able to offer any manner of suggestions with

a view to effect any modification of the details of the Budget that has been presented. These details are so welded together that they produce a system, a sort of a balance and an equipoise which cannot be disturbed by any offhand criticism. Especially the Upper House must feel its sense of inferiority in being constitutionally deprived of the privilege of being able to exercise any sort of influence upon the details of the Budget that is presented by Government. Still I should like to offer a few observations with reference to these very details although I know that I shall do it in a loose manner. I feel like Tennyson's *Brook* which exclaims, "Men may come and men may go, but I go on for ever." So, budgets come and budgets go but the condition of the province remains the same as before without any light from any quarter being thrown upon the very difficult conditions which the country is passing through. Frankly speaking, this Budget appears to me to reflect only the stationary conditions. It has no element of dynamism or improvement. It is absolutely a static Budget. I do not like to blame however, the present Finance Minister who has hardly had any time to produce any Budget of a new type which may reflect the well-being of the province as a whole in every direction. Yet at the same time I feel that the Budget reveals certain features in the common life of the province which ought to be brought to the notice of the Government.

For instance, running over the pages of the Finance Minister's Financial Statement, on page 3 I find that there is an improvement under the head "Revenue receipts" on account of Excise. Now on this point alone the Bengal Government cuts a very sorry figure as compared with some other provinces which have introduced Prohibition and do not like to treat Excise as a possible source of revenue. Of course, Bengal intrinsically is foremost in the matter of Prohibition because, without any special administrative effort made on this account, the people of Bengal are very, very abstemious, if I may say so, and they are not addicted to the evils of drink which call for Prohibition as is the case in other provinces. It seems that the average revenue receipt on account of Excise represents about a crore of rupees as against 5 to 6 crores shown in other provinces' Budgets, and therefore, once the Finance Secretary—about two years back—was pleased to make this general observation that the Excise revenue is a very good index of the high level of morals of the people of this province. I do not, therefore, wish to see any increase in the Excise revenue, even if it is for relieving the difficulties of deficit Budgets. On the other hand, although as an accountant the Finance Minister has found some pleasure in the fact that certain heads of expenditure are showing hopeful signs because the expenditure budgeted for has not been incurred, I find no pleasure from the fact that the subjects on which expenditure should have been incurred are subjects

connected with nation-building departments. For instance, it has been remarked that there is a very slow progress in the execution of certain irrigation projects; and then again certain projects about public health. These projects have not been completed with the result that the Budget under public health shows decrease of expenditure.

All these really amount to reflection on the administrative efficiency of the departments concerned. The departments concerned must live up to their means and must not come to the Legislature with their accounts showing that they are unable to spend the money that was granted to them. This is not the way in which these great subjects affecting public welfare should be handled.

Now as regards jute export duty, the Finance Minister has been pleased to make the observation on the basis of expert opinion that the stoppage of export of jute to the belligerent countries like Germany, Poland and Czecho-Slovakia will ultimately be a matter of loss to India. Well, I think and as Mr. Ross has already pointed out that if jute duty account is propoerly gone into it will be found that the province cannot suffer economically and on the whole the province will gain very much more than has been anticipated on account of jute.

Then again, I find that saving to the extent of Rs. 10 lakhs on account of the medical needs of the province has been made for the reason that the working out of details of some of the larger projects for which provisions had been made in the Budget has not been carried out in time. Now this sort of accounts showing that the budgeted expenditure has not been spent, has not been availed of by the departments concerned is really a matter of grave concern to the Legislature sanctioning the budget.

Similarly, Irrigation Budget shows a saving of 4 lakhs owing to the non-utilisation of the provisions of the Waterways Board and there are also other savings on this ground. I fully realise that there are administrative difficulties in the way of formation of schemes for expenditure. I do realise that Government cannot embark upon expenditure merely because expenditure has been budgeted for. But at the same time when Government ask for a particular grant, they must be ready beforehand with complete schemes, so that what is required is to compete the schemes. They should not come prematurely before the Legislature with certain unbaked schemes and then at the end of the year report that they are unable to live up to the expenditure sanctioned.

In connection with irrigation we have the greatest complaint because I myself was very very fortunate to be able in one of the earliest meetings of the Legislative Council in bringing forward a resolution on the subject which was accepted unanimously by this

House. My resolution referred to the formulation of a comprehensive irrigation scheme for the whole of the province by the appointment of an Expert Committee and a committee comprising of members of the two Houses. Although this resolution was passed in the Council unanimously and although nearly about three years have elapsed since the passing of that resolution, no action has been taken by Government, and I believe, no move has been made in the right direction as regards the formulation of this scheme. Meantime while the Government of Bengal are content with an Irrigation Budget of about Rs. 55 lakhs, our sister provinces are forging ahead in a spirit of adventure. The Punjab Government has just completed their irrigation scheme at a cost of Rs. 37 crores whereby a third of the Punjab which was an arid desert has been converted into a smiling garden. Similarly even in the United Province the total expenditure on irrigation up till now exceeds Rs. 25 crores, whereas in Bengal although we have started with certain natural advantages in the way of irrigation, and although we have the great gift of abundant rainfall as a source of natural irrigation, yet we have been unable to utilise our natural advantages by not doing what is required. What is most needed for the province is a comprehensive scheme. We do not want to have a "Bijoy cut" here or an "Anderson cut" there. What we want is a comprehensive scheme for all parts of the province which suffer from alternative drought and flood, from scarcity of water or excess of water. All parts of the province should be equally treated so far as irrigation facilities are concerned by scientific planning. Now the reply of this department has always been first to call a conference so that the question may be shelved and then slowly to make their way towards certain schemes. I find now that they are making a contour survey of Northern Bengal at a cost of Rs. 4 lakhs instead of 400 lakhs.

Now what is the upshot of all this. Every year we are being confronted with merely budgets for the upkeep of the establishment. There is no provision for any improvement of any kind. The department is simply keeping up the establishment somehow, whereas in other sister provinces they are all inspired by a kind of idealism which make them go boldly for large schemes and they do not shrink from the responsibility of financing those large schemes. I therefore think that although within the limits of the Budget matters are fairly arranged, and so far as the accounting part of the Budget is concerned, it is quite above board and no auditor can take any objection to the accounting, I find from the point of view of real statesmanship the Budget really falls grievously short of the fundamental requirements of a progressive province like Bengal. Therefore I say that really the members of the Legislature are absolutely helpless in trying to modify any of the details of the Budget.

There is really a rigid framework within which our finances have to be adjusted, but what is needed is not the framework, but quite a different principle, a different outlook by means of which a different framework could be devised whereby the real need of the welfare of the masses can be promoted. Now, the prime need of Bengal, as I said is the uplift, the betterment of the lot of the greatest number, namely, the millions of our agriculturists and we have already found by special investigations how dire is the lot of the poor tiller of the soil. The poor tiller of the soil has got all the advantages that ordinary administration can give him. He is not suffering from any kind of rack-renting. He has already got all the rights of proprietorship which have been transferred to him by the Bengal Legislature and to-day I make bold to assert that the Bengal peasant compares more favourably with his fellow-peasants in ther provinces in India, where there are far greater difficulties in their way and yet with all these advantages the Bengal peasant can hardly earn his bread and why? Because, he is unable to have the full quantity of produce out of his holding and that only for the fact that the improvements which are necessary for agriculture, the improvements which come from schemes of irrigation have not yet been undertaken by Government. I therefore say that we are really very, very careless about improvement of our agriculture and the condition of the masses.

Now, as I have said, mere attention to the details of the Budget will not carry us very far. I therefore propose to indicate certain general lines on the basis of which, I hope, the Budget of the future should be framed. The initial difficulty of the finance of the province is the disproportionate expenditure that is devoted to the administrative departments as distinct from the nation-building departments. I have calculated that out of a revenue of Rs. 13 crores nearly a half is absorbed by establishment. Civil Administration, General Administration, Administration of Justice and Police, these alone, that is to say, the Executive, Judiciary and the Police, absorb nearly a half of the total revenue of the province. We have been rather impressed by the great efforts that some of the first class powers of the world to-day are making in their struggle for their existence, but the greatness of every nation depends upon its Budget and if you study the Budget of a progressive country like Japan, or England, or even Ireland, you will see that mere establishment as such does not absorb such a large proportion of the total revenues of the country. If we compare the Budget of a department like the Police which takes over nearly two and a half crores with the Budget for Education, what do we find? We find that we are spending on education only rupees one and a half crores. Even the Police is getting more patronage from the hands of the Government than the cause of education, higher, lower and secondary.

Similarly the Medical Budget is given Rs. 58 lakhs in a total Budget of Rs. 13 crores. Of course I am giving only approximate figures. Pray do not take them as exact figures: these are available on a reference to the Budget.

Similarly the prime needs of public health in a notoriously insanitary province are being served by a modest sum of Rs. 48 lakhs.

Similarly agriculture, the national key industry of Bengal, is given a short shrift by a grant of only Rs. 17 lakhs. Think of the crores that are spent in other provinces. I need not multiply examples. When a pot of rice is being boiled, it is not necessary for you to examine all the bits of rice to see whether the rice in the pot has been boiled. I have given you certain sample facts to show the inadequacy of the provisions of the Budget.

Now, I come to the main problem which is really the problem of problems for Bengal's finance. It is impossible for any province to effect any kind of national improvement in any direction on the basis of its financial position which is revealed by a comparison of the figures for other provinces. On this subject, I might quote from a Government document. These simple facts will at once be able to convince you that the province has absolutely no future unless the budget is thoroughly overhauled and the principles on which it is framed are radically changed. What hope could there be for a province with a large population but with too small revenue? As a historian you to look back with me for about ten years to trace the past history of this province. Let us examine the financial position from 1928. In 1928-29, Bombay with a population of 19 millions, was able to secure by representations to the Government of India, a residual provincial revenue of 15 crores, and Bengal during that year with a population of 46 millions was content with only 11 crores. Now, believe you are all students of simple arithmetic. You please consider this primary financial position. How on earth could Bengal cater for the need of a population of 47 millions with a bare revenue of 11 crores, while Bombay with a population of 19 millions, nearly less than half of Bengal's population, could get a revenue of 15½ crores? Then came the separation of Sind, and to-day Bombay has got a revenue of 13 crores to do duty for 15 millions; whereas to-day—I may anticipate the census of 1941—we are 55 million strong with a revenue of nearly 13 crores. Indeed, Sir, the progress of population is far out-stripping the progress of material and financial resources. To-day our difficulty is how to make these 13 crores to go round a population of 55 millions. In Bombay they have got a revenue of 13 crores to do their duty for a population of 15 millions, which is less than one-third of Bengal's population. Similarly, Madras, with a population of 42 millions, has a revenue of 18 crores, and the Punjab with a population of 20 millions has a revenue of 12 crores, and so forth and so on.

Now, the question is, how can the Finance Minister manage against these heavy odds. These are heavy odds indeed! And therefore our Finance Minister cannot surmount the difficulties that stand in the way by a simple manipulation of the Budget or appropriations of the details of the Budget. What is needed is that, as was stated by the last Government, Bengal needs help at the hands of the Centre, and Bengal as province must stand up against the injustice of federal finance. The hopelessly inadequate distribution of revenues between the Centre and the provinces—and that is the original sin from which we Bengalis are suffering—is at the root of much of the present poor condition of this province. Here there is no ground for any communal difference amongst the people of Bengal. The whole of Bengal is involved in a common ruin unless the primary financial adjustment with the Centre is immediately rectified by the pressure of a united Bengali nation through their national Government. I am using the very words that were used by the Government of Bengal under the Old Dispensation. The first point before the Government of India was "the hopelessly inadequate distribution of revenue as between the Centre and the Provinces," and the grounds on which this statement was supported I have already explained. Now, as a result of this extremely unjust financial adjustment against Bengal, if you study the course of the Budget for the last ten or twelve years, say from 1921 to 1933, comprising more than one decade, you will find the huge deficits that Bengal had to face during this period and she had to suffer a loss of more than ten crores of rupees. This is all due to the iniquitous Meston Award and all this money Bengal had to find by means of additional national sacrifices, which she did by means of additional taxation. Now, when the national revenue is so inadequate for the requirements of the people in every direction you will find signs of decline and deterioration, and the accumulated effect of all the inadequate Budgets tells heavily on the people and on their activities.

Now, let us take the Budget of Education, which is the most potent agency of uplift that a country can conceive of. What future can there be for a province where the percentage of literacy is 3, and the average income is 3 annas per head. Education is the primary need of the province. Now, since 1921, whereas Bombay spent about 20 annas Bengal was spending only 5 annas per head. The expenditure per head on education in Bengal has been the modest sum of 5 annas. My point, therefore, is that to be born a Bengali is due to some misdeeds committed in previous births in which we, Hindus, believe. I think that to be born a Bengali is a serious handicap. No wonder that the Bengali is going to the wall in competition in various spheres of national service.

Similarly, the health of the Bengali is deteriorating, and the cause of this decline is to be sought not in any academic theories.

The tale of the decline of the national health and the physique of the Bengali is very depressing. Whereas provinces like Bombay and Madras can spend at least 8 annas per head on Medical and Public Health, in Bengal the Government can hardly spend 2 annas.

But there is one matter on which no doubt Bengal takes the lead amongst the provinces of India, and that is as regards the provision for Law and Order. Of course, the Bengal Government knows how rigorously to insist on Law and Order and, therefore, the expenditure in Bengal on that score is very, very high indeed, as compared with the provinces like Madras.

Now the question is, what are we going to do? The Hon'ble Finance Minister had referred to the Jute Export Duty. As you know, originally the whole of this export duty was appropriated by the Central Government. As a result of the manly fight put up by the late Government the Government of India relented and first of all half of the net proceeds of the duty on jute exports, a legitimate provincial revenue, was surrendered to Bengal on account of the tale of financial woes showing deficits totalling more than ten crores of rupees. Then, after that we got a further concession, by which the jute export duty now shared by Bengal, amounts to 62½ per cent. of the total yield. But I suggest that on grounds of unimpeachable principles of federal finance there is no case whatsoever for treating the duty on the export of jute as a federal source of revenue. On this subject I had better quote the words of the Peel Committee which was appointed by the Round Table Conference to go into the subject. The Peel Committee's definite recommendation was: "If there is to be an equitable apportionment of burdens and smooth working of the constitutional machinery, the federal resources should, as far as possible, be confined to revenue derived alike from the inhabitants of the provinces and all other States and which can be met either without any action on the part of the individual State or by any agreement of a simple character readily enforceable. Obviously, the principle that was laid down by this expert Peel Committee militates against the levy for federal revenues of a duty on jute which is a product derived solely from Bengal and two other provinces. And therefore, I think that by the same fight by which we got Federation to concede to Bengal a large portion of this export duty by showing a still greater fight we should be able to annex the whole of this jute export duty.

Now, the second grievance of Bengal with regard to her financial position is the income-tax receipts. Members must be aware that of the total income-tax receipts available for the Government of India as a whole, 36·2 per cent. is subscribed by Bengal. Now this province has been bled white and has been drained dry for the benefit of the Centre. Pray, by this, do not think that Bengal is a poor province intrinsically,

the gross revenue of Bengal amounting to about 39 crores of rupees. Of course, our humdrum budgets make no reference to this fundamental fact of our national finance, showing that Bengal intrinsically is the richest province in the whole of India. But she has been rendered the poorest province to-day by manipulation of Federal Finance and has been asked to shift for herself with a revenue of 13 crores of rupees for a vast population of 55 millions. Of course, there is the objection taken that the whole of the income-tax receipts which Bengal supplies to the Centre should not be credited to Bengal, because it is alleged that a portion of the income on which the tax is levied is attributable to business in the up-country which flows through the port of Calcutta, so that the port of Calcutta serves merely as a sort of post office through which orders are executed. While I am prepared to make an allowance for this aspect of the income-tax revenue derived from Bengal,—let me here quote the exact words of the late Government of Bengal on the subject. "Even on a fair weightage the share of Bengal in the income-tax receipts must have been very great as compared with that of the other provinces. Moreover, the tax represents practically the whole benefit of the revenue derived from provincial industries. It is, therefore, desirable, continues the Government memorandum, that a good part of the income-tax should be available to the province from the very inception of the new Constitution." I do not like to tire you out with details of the economic discussion on the subject of the income-tax revenue. Fundamentally the position is that Federation has not seized just those sources of revenue in Bengal which are somewhat rigid, inelastic and incapable of expansion. I think this business should have been proceeded with in quite a different way. The Imperial Government should have tried first to assess the total federal burden for the whole of India and then having assessed that burden they should have distributed equally this burden among all the provinces on the basis of per head of population. Then in that case Bengal might have been confronted with the burden of furnishing a certain proportion of the total federal demand and Bengal should have been left with sufficient fiscal autonomy to be able to arrange to remit to the Government of India the share that was due from Bengal as its federal contribution and if Bengal were left free to meet the financial burden, then I think Bengal would have proceeded with this business in a different way. Here what is done is this. The Federation has laid its stranglehold upon Bengal's national life and financial resources. It says practically, "you must mortgage to us all the fertile sources of your revenue and then as regards the welfare of your people you look for yourselves as best as you may with other sources of revenue which are not at all capable of growth or expansion."

Now is this a fair deal? The whole province has been impoverished, and I am afraid that all the idealism which inspires the members of the party opposite and the members of my own party, all the national

idealism that inspires us in this House, all that idealism will go for nothing because we are not able to secure the financial basis on which alone this ideal and nationalism can materialise. There will be no hope for the province unless it can get its fair share of revenue with reference to the needs of its expanding population. You cannot do in Bengal with a third of revenue of the Bombay Presidency and unless a national fight is kept up continually against Federation I am afraid, the future of Bengal will be entirely blighted.

I do not like to prolong my remarks. But before I sit down I wish to assure the Finance Minister that if I have indulged in any criticism (not a carping criticism), I have no intention at all to add to his difficulties. I have only made certain observations on the basis of which I think the Government will be able to do the needful. As I read our national situation it is indeed desperate and mere manœuvring of provincial finance or mere piecemeal appropriations in the Budget will not avail us at all.

Mr. HUMAYUN KABIR: I should at the outset like to associate myself with the remarks which have been made by Dr. Radha Kumud Mookerji with regard to the bereavement which has befallen our Finance Minister and I can assure him that irrespective of political opinions he has the sympathy of all sections of this House in his great burden which he has to bear. This, Sir, makes our task to-day a little more difficult, for in commenting upon the Budget which has been presented before this House, there are two factors which we cannot forget. To one I have just now referred and the other is extremely short time which the Hon'ble the Finance Minister had before he could prepare his plans. These two factors must therefore to a certain extent make it difficult for us to make observations with that amount of force which otherwise the Budget really calls for.

Before I come to the critical part of my remarks I would also like to congratulate the Finance Minister for the very workmanlike way in which he has presented the Budget. The Budget and the statement are clear and concise and from that point of view also he deserves the congratulation of all the members of this House.

After saying that, I am afraid that the grounds of congratulation are almost exhausted. Almost I say purposely, because there is at any rate one other item on which I think he deserves the congratulation of members of this House, but I shall reserve my remarks on that point for the present.

The first feature which every student of the budget must have remarked is one to which the Hon'ble the Finance Minister himself refers, namely, the extremely conservative character of this Budget. One might go further and say that it is not merely a conservative Budget, it is a reactionary Budget.

In a conservative Budget we conserve what we have already achieved. In the Budget which the present Finance Minister has presented, there is not even the conservation of what little we had achieved in the course of the last three years. Little enough was done in the past but even that little is now largely undone. We have here to consider also the grounds which have led the Hon'ble Finance Minister to go back on the provisions of the previous Budgets in this way and to frame a Budget which is less progressive than the Budgets to which we have been accustomed in the last two or three years.

There is a great deal of reference in the budget about the war. It has been said that we are living in very unusual times, we are living in very uncertain times and we may soon expect the slump which is almost invariably a consequence of the war. I would here remind him of the fact that even though it be true that war is always followed by slump, or at least had been so followed in the past, this does not in any way take away from the validity of the fact that at the moment there is no suggestion of a slump in Bengal. On the contrary, the general industrial and economic life of the country has been quickened in a way which it has not been the good fortune of any other Finance Minister to meet in the course of the last few years. The Hon'ble the Finance Minister is keenly aware of the fact that the prosperity which Provincial Autonomy seemed to usher in Bengal about three years ago is likely to decline and that we have almost passed the good days, financially speaking, of Provincial Autonomy. But, I think, Sir, here he is doing less than justice to himself, for he has anyhow been privileged to frame his Budget at a time when the economic position of Bengal on account of this war is in a much better, much happier position than it would have otherwise been. I can agree with him that but for the war the present financial position of Bengal might have been weaker. On account of the war, the position has been improved and to argue that just because there may be a slump at the end of the war, nobody knows how long the war will go on (it may last for 3 years, 5 years or 10 years), there is no reason why on account of a future slump which might follow, we must to-day curtail our expenditure on subjects which are of urgent necessity in the nation-building departments of the province. I may be permitted in this connection to say that our Finance Ministers seem placed between the horns of a dilemma. We are very often told that the present condition is very bad, and therefore, there can be no budgetary provision for any increase in the expenditure on the nation-building of this province. The Hon'ble the Finance Minister has to-day supplied us with the other horn of the dilemma. To-day we are prosperous no doubt, but whenever there is prosperity, days of adversity will follow in the inevitable revolution of the wheel of future. Because this adversity will follow, therefore we need not indulge in the expenditure in the nation-building departments though we have a prosperity budget now. Because to-day we are prosperous,

adversity may follow to-morrow, and we should not incur expenditure for nation-building departments! To-day we are not in a slump, therefore funds are available, but we cannot yet budget for nation-building expenditure. I think the only conclusion which can be legitimately drawn from this dilemma is that there can never be any adequate expenditure for nation-building departments. I submit that this dilemma is just as fair or just as unfair as another dilemma which we might put to the Finance Minister. We may follow his own argument and say, "No doubt we are to-day suffering from adversity on account of a revolution in the wheel of fortune of our country, but we shall have days of prosperity in future therefore we can budget for increased expenditure in anticipation of future prosperity." If anticipation of future adversity prevents us from undertaking expenditure which is necessary for nation-building to-day, I do not see any reason, why anticipation of future prosperity will not enable us to make provision for increased expenditure.

This, Sir, I admit is only a debating point. The fact remains that to-day the position of Bengal, may the position of India as a whole, is particularly strong and the war is one of the factors which is responsible for this increased strength in the financial position of the country. India is primarily an agricultural country; it is primarily a country which is producing raw materials for the rest of the world. It is inevitable that these raw materials will be in demand by all the nations of the world which can get access here. If we are to believe the contention of the British that they have been able to make secure the lines of their communication, that there are no difficulties so far as transport of commodities are concerned, then there is no reason to suppose why the agricultural commodities, why the raw materials of India, and particularly of Bengal, shall not be transferred to those countries where there is demand for them.

Again, Sir, there is another side of the picture. There is moreover the contention that most of the industrially advanced countries of the world have to-day diverted their resources to the production of armaments, to the production of elements which are used for the destructive purposes of the war, with the result that many of the commodities which we need cannot be supplied by those countries. Even if all the communications are guaranteed, even if all the ships are available, even then many of the commodities to which we have become accustomed, many of those articles that have become necessities cannot be supplied by foreign countries. Consequently it is inevitable that the supply will naturally be stimulated in Indian markets. Therefore, Sir, in the very near future, we can look forward to the growth of new industries in India, we can look forward to a very large-scale industrialisation of India as a whole and Bengal in particular. Here also there is, I think, room for optimism. This war has not in any way affected adversely the economic life of the province; the agriculturist

is now well-off, price of jute has gone up and prices of all raw materials have gone up. Excess profit duties are looming large on the horizon. Speaking from the point of view of finance, from the point of view of industry and commerce, the position of Bengal to-day is extremely happy. The market for raw materials is assured. The demand for finished product is there and this demand is not being met by the countries which formerly met them and therefore industries should develop here. With such a prospect, such a future before him I think the Finance Minister might have been a little more daring. I expected him to show a little more daring, because even his worst enemies will not say that he suffers from lack of dash. If he has shown this daring in other sphere, why in this particular sphere of activities also some amount of daring should not be in evidence?

Coming then——

Mr. PRESIDENT: Order, order. You will continue your speech to-morrow.

Adjournment.

The Council then adjourned till 2-15 p.m. on Thursday, the 22nd February, 1940.

Members absent.

The following members were absent from the meeting held on the 21st February, 1940:—

(1) Khan Bahadur Naziruddin Ahmad.
(2) Mr. Nur Ahmed.
(3) Rai Bahadur Keshab Chandra Banerjee.
(4) Mr. Humayun Reza Chowdhury.
(5) Mr. Narendra Chandra Datta.
(6) Mr. Mohamed Hossain.
(7) Khan Bahadur Syed Muhammad Ghaziul Huq.
(8) Maulana Muhammad Akram Khan.
(9) Mr. W. B. G. Laidlaw.
(10) Mr. H. G. G. Mackay.
(11) Mr. E. C. Ormond.
(12) Mr. H. P. Poddar.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES.

THE COUNCIL met in the Legislative Chamber of the Legislative Buildings, Calcutta, on Thursday, the 22nd February, 1940, at 2-15 p.m. being the third day of the First Session, pursuant to section 62 (2) (*a*) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Allotment of seats for the Bengal Legislative Assembly.

15. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN (on behalf of Mr. Nur Ahmed): (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state if the present allotment of seats for the Bengal Legislative Assembly shall be altered or modified on the basis of the suggestions embodied in the Bengal Reforms Commissioner's report as incorporated in the report of the Reforms Office, Bengal, 1932-37?

(*b*) Has the attention of the Hon'ble Minister been drawn to the various recommendations and suggestions made in that report? If so, what are the main recommendations and suggestions and how far does he intend to give effect to them?

(*c*) Is it a fact that the Reforms Commissioner has shown in this report that the district of Chittagong should have one more Moslem seat on the basis of the number of Moslem voters? If so, has the Government decided or intends to allot one more Moslem seat to Chittagong? If not, why not?

(*d*) Is it a fact that a case was made out for inclusion of Chittagong in the Moslem Women's Constituency of the Bengal Legislative Assembly? If so, does the Government intend to include Chittagong in the Moslem Women's Constituency of the Bengal Legislative Assembly? If not, why not?

(*e*) Does the Government intend to create a special Moslem seat in the Bengal Legislative Assembly for the representation of women in the urban areas of Chittagong, Dacca and Rajshahi Divisions? If not, why not?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Khwaja Sir Nazimuddin): (*a*) No.

(*b*) Yes. A summary of recommendations is given on pages 256-260 of the Report. These have been considered by Government and necessary action has been or is being taken.

(*c*) Yes. No. The power to do so does not rest with Government.

(*d*) and (*e*) The suggestions to include Chittagong in the Muhammadan Women's Constituency of the Bengal Legislative Assembly and to create a Muhammadan Women's Constituency comprising the Dacca, Chittagong and Rajshahi Divisions were duly considered and rejected by the Provincial Advisory Committee on the delimitation of constituencies. These were also brought to the notice of the Indian Delimitation Committee. The delimitation of constituencies has been finally provided for in the Fourth Schedule to the Government of India (Provincial Legislative Assemblies) Order, 1936, on the basis of the recommendations of the Indian Delimitation Committee. No alteration in this Schedule can be made by the Provincial Government and it is not proposed to reopen the question

Khan Sahib ABDUL HAMID CHOWDHURY: With reference to reply (*c*), will the Hon'ble Minister be pleased to state with whom the power rests?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It rests with His Majesty's Government.

Indirect election to the Bengal Legislative Council.

16. Rai Bahadur SURENDRA NARAYAN SINHA: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state what procedure will be followed in the indirect election of the members of the Bengal Legislative Council by the members of the Bengal Legislative Assembly to fill up the vacancies that will occur in April, 1940, as contemplated under section 61 (3) of the Government of India Act, 1935?

(*b*) Will the election be treated as a by-election to fill up the casual vacancies or as a general election?

(*c*) Will the Bengal Legislative Assembly as a whole vote for all the members to be so elected or whether only the members of the general community will be entitled to vote for filling up vacancies in respect of the seats hitherto filled up by members of the general community while members of the three other communities will vote for seats which had been filled by members of their respective communities?

(*d*) Out of the nine Council seats which will fall vacant, how many will belong to the general (Hindu) community, how many to the

Muslim community, and how many to the European community? Is it proposed to alter the present distribution of these seats as between the different communities?

(*e*) Will any member of the Assembly who wants to stand for the coming election to the Upper House, have to resign his seat first to be qualified as a candidate?

(*f*) Will the voting be in accordance with the system of proportional representation by the means of single transferable vote? Will each M.L.A. be thus entitled to exercise nine votes in order of preference?

(*g*) What is the present strength of the Assembly?

(*h*) What will be the "quota" for election?

The Hon'ble Khwaja Sir NAZIMUDDIN: The hon'ble member is referred to——

(*a*) Parts VI and VIII of the Bengal Legislative Council Electoral (Conduct of Elections) Rules, 1936.

(*b*) Notification No. 214A.R., dated the 10th February, 1940, published in the *Calcutta Gazette Extraordinary* of the same date.

(*c*) Rule 85 (*2*) of the Bengal Legislative Council Electoral (Conduct of Elections) Rules, 1936, and notification No. 215A.R., dated the 10th February, 1940, published in the *Calcutta Gazette Extraordinary* of the same date.

(*d*) Notification No. 674A.R.—D., dated the 24th May, 1937 (pages 254-255 of the Bengal Legislature Manual, Volume II)—it is not proposed to alter the present distribution of seats as between the different communities.

(*e*) Paragraph 16 (*3*) of Part I of the Government of India (Provincial Legislative Councils) Order, 1936 [page 37 of the Bengal Legislature Manual, Volume I, Part II], and rule 3 (*1*) of the Bengal Legislative Assembly and the Bengal Legislative Council (Prohibition of Simultaneous Membership) Rules, 1936 [pages 231-232 of the Bengal Legislature Manual, Volume II].

(*f*) Paragraph 14 (*c*) of the Fifth Schedule to the Government of of India Act, 1935, and rule 74 (*1*) of the Bengal Legislative Council Electoral (Conduct of Elections) Rules, 1936.

(*g*) Table of seats of Provincial Legislative Assemblies appended to the Fifth Schedule to the Government of India Act, 1935, and statement at pages 4-9 of the Bengal Civil List corrected up to the 1st January, 1940.

(*h*) Rule 78 (*3*) of the Bengal Legislative Council Electoral (Conduct of Elections) Rules, 1936.

Mr. HUMAYUN KABIR: With reference to answer (*d*), will the Hon'ble Minister be pleased to state how he proposes to maintain the present distribution of seats in this indirect election?

The Hon'ble Khwaja Sir NAZIMUDDIN: There is no reservation for any community as far as indirect election is concerned.

Mr. HUMAYUN KABIR: Exactly so, Sir. But are we to understand that the answer given here is wrong or at least inaccurate?

The Hon'ble Khwaja Sir NAZIMUDDIN: We do not propose to alter any present arrangement. Whatever the present arrangement is, it will remain there.

Gumti embankment.

17. Mr. LALIT CHANDRA DAS: (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state whether steps are being taken to deal with the question of Gumti embankment in the district of Tippera and the floods in relation to the embankment?

(*b*) Did the latest scheme of the experts recommend the creation of two or three escapes in the embankment, and is it a fact that estimates with plans for execution of the schemes were actually drawn by the Government experts?

(*c*) If the answer to clause (*b*) is in the affirmative, was a Conference called to pronounce opinion upon the scheme relating to the escapes with the result that the matter remains where it was several years back?

(*d*) Will the Hon'ble Minister be pleased to state what definite action has actually been taken up till now by the Government and how it proposes to deal with the embankment and within what period of time the question of this embankment will be finally dealt with?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Srischandra Nandy, of Cossimbazar): (*a*) Yes.

(*b*) A scheme for constructing two escapes on the Gumti embankment was drawn up and plans and estimates prepared by our technical advisers who were not prepared, however, to recommend that it should be taken up.

(*c*) and (*d*) I have convened two conferences, one of which attended by members of the Legislature representing the area concerned, was held on the 20th December, 1939, to consider the policy which should

be followed with regard to the Gumti embankment. The hon'ble member who has asked this question was present at the second conference, and may remember that it was generally agreed that the ideal solution would be to abandon the embankment retaining sufficient length for the protection of the town of Comilla. It was considered however that in the first instance there should be a survey of the area with the object of ascertaining the extent of any damage which might occur and the possibility of preventing or minimising loss by the introduction of alternative crops or otherwise. It was also agreed that pending the final decision, the non-Government portion of the embankment should be maintained in its present condition, breaches being repaired as they occur but no effort being made to raise the height of the embankment.

I have accordingly ordered the prepartion of an estimate of the cost of making a survey of the area likely to be affected if and when the embankments are abandoned. An estimate of the cost of maintaining the non-Government portion in its present condition is being made and the method of financing this work is under consideration. On completion of the proposed survey, the question of abandonment will be finally decided.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether an estimate of the cost of making a survey of the area likely to be affected has actually been drawn up in the meantime?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Sir, I do not think the estimates have been drawn up, but they are under preparation.

Mr. LALIT CHANDRA DAS: May I ask the Hon'ble Minister to give us the probable time within which it is likely that this estimate will be drawn up?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Sir, I have every hope that the actual work will be taken in hand within the next three or four months.

Mr. HUMAYUN KABIR: Before we proceed further, Sir, may I submit that some questions are still unanswered from the last session and to draw your kind attention to it?

Mr. PRESIDENT: So far as I remember, there is only one question relating to the Education Department that still remains unanswered. We have received a representation from that department saying that it will shortly be sent.

Mr. HUMAYUN KABIR: There are some relating to the Co-operative Department also.

Mr. PRESIDENT: I think none.

Motion for Adjournment.

Mr. PRESIDENT: The Chair has received notice of an adjournment motion from Mr. Lalit Chandra Das. It runs as follows:—

"That this Council do adjourn its business to discuss a definite matter of urgent public importance, namely, the situation which has been created by the Government's order No. 1052P.—Home Department, Political (Press), dated Calcutta, the 17th February, 1940, issued under clause (*a*), sub-clause (*I*) of Rule 41 of the Defence of India Rules and served by the Government of Bengal on Wednesday evening, *i.e.*, on the 21st February, 1940, on the Editor of the 'Hindusthan Standard' prohibiting publication of any leading articles intended for publication in that paper before those were submitted for scrutiny by the Special Press Adviser in Calcutta."

Has any member any objection to the discussion of this adjournment motion?

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I object to this on the ground that the order affects only one paper. It is in pursuance of certain laws which are in force in this province. I submit, Sir, that action against one individual or newspaper cannot be regarded as creating a "situation" in the province as a whole. What I mean to say is that actually the law is there which provides for action of this kind and action has been taken according to that law. I submit, Sir, that if a certain penal clause is there in an Act and if that penal clause is applied to a particular person, I do not see, Sir, how that can be construed as creating a "situation" entitling a discussion in the Legislature. If it is at all to be discussed, it can very well be done when the Budget grants come in. But to suspend the normal business of the House at a time when the Budget discussion is to take place is, to my mind, not fair. If the department had issued a large number of orders affecting the freedom of opinion in the case of a large number of newspapers, then I would accept that as an instance which might be regarded as restricting the freedom of a large number of newspapers, and therefore that might be a ground for the policy of Government to be questioned. But in this particular instance, Sir, certain action has been taken against a single paper according to the laws of the land —and I submit, Sir, for your consideration that it does not come under

the rules of the Bengal Legislative Council Procedure which would entitle the member to have this motion moved and thereby to suspend the normal business of the Legislative Council.

Mr. LALIT CHANDRA DAS: Mr. President, Sir, I want to say something in reply to what the Hon'ble Home Minister has just now said. Sir, I do not deny that Government has taken action under certain provisions of a Law which is now in force, but what I do object to is that it has resulted in disturbing the functioning of the Press in its normal course. My motion refers to the "situation" that has been created by this order on the "Hindusthan Standard". It may be that to-day it is the "Hindusthan Standard" that has been proceeded against, but to-morrow the "Amrita Bazar Patrika" and the day after the "Advance" may fall an easy prey to such orders. And this adjournment motion is brought forward to check such orders of seizing one paper after another. Such an action as this is only a part of the policy of repression which has been adopted by Government. It is high time that the public takes notice of it and resentment is expressed in this House against such a policy. Sir, I submit the order is only the beginning of a series of repressive measures against the Press. As you know, the Press is already working under heavy odds and this is another attempt, Sir, by the Government to stifle the Press, which is the mouthpiece of public opinion. So, I submit in all seriousness that such an order has actually created a panicky situation which requires immediate discussion. I cannot understand why the Hon'ble the Home Minister should be afraid of a discussion of a question like this in this House. Gagging the Press is not a trifling matter. As I said before, this is only the beginning of a series of repressive acts. The next day they would fall upon another set of newspapers and in this way the situation would become complicated and worse. It is high time that the mischief should be nipped in the bud.

The Hon'ble Khwaja Sir NAZIMUDDIN: I am glad the honourable member has accepted my contention that mere passing of the order against an individual newspaper does not entitle him to move an adjournment motion.

Mr. LALIT CHANDRA DAS: I have never said that.

The Hon'ble Khwaja Sir NAZIMUDDIN: But he apprehends that similar action may be taken in future and so he wants to raise a discussion on the policy of Government. Therefore, Sir, if on a future date he submits a motion for consideration regarding the repressive policy of Government, that is a question on which you will have to again exercise your discretion whether the motion is admissible or not. As far as my contention is concerned, it has been left unanswered. The

honourable member has cited an instance which shows that he questions the general policy of Government and not its application in an individual case. The honourable member should have confined himself to the individual action which has been the cause of this trouble, and as far as that is concerned, he has admitted that there is no justification.

Mr. PRESIDENT: I appreciate the argument advanced by the Hon'ble Home Minister. It is true that in rule 41 of the Defence of India Rules, it is definitely provided that "if in the opinion of the Provincial Government it is necessary or expedient for the enforcement of these Rules, the Provincial Government may, by order addressed to a printer, publisher, or editor, or to printers, publishers and editors generally, require that all matter as contemplated in this order shall be submitted for scrutiny." So, the order complained of is fully within the bounds of law now in force; that is not disputed. But I shall have to consider the matter from the standpoint of the narrow technique of our rules.

Rule 97 of the Bengal Legislative Council Procedure Rules says, "A motion for an adjournment of the business of the Council for the purpose of discussing a definite matter of urgent public importance." At this stage, I have got to apply my mind to the point as to whether it is a definite matter of urgent public importance. That it is a matter of public importance, there is no doubt. The matter is also definite, because there has been a specific complaint against a particular order of the Government. If the honourable members had other opportunities in this House to discuss this matter, then by applying the Rule of Anticipation, a motion like this might be barred. It is for the House to decide whether leave should be granted. If the motion is supported by 13 members, then only this motion can be discussed and so far as the merits of the motion is concerned, it will be absolutely for the House to decide whether Government was justified or not in passing the order complained of. Now, I am on the very narrow point of deciding whether it is a definite matter of urgent public importance. I hold that it is so and therefore the motion is in order. As the motion has been objected to, the honourable members who support this motion will kindly rise in their places.

As less than 13 members have stood up, I have to inform the honourable member that he has not the leave of the Council to move his motion.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I give notice of a motion with your permission?

Mr. PRESIDENT: Yes.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I have the honour to give notice that in the current session of the Bengal Legislative Council I shall move, on a date to be fixed later on, that the Bengal Tenancy (Third) Amendment Bill, 1939, as passed by the Bengal Legislative Assembly, be taken into consideration and passed.

Mr. PRESIDENT: The House will now resume further consideration of the Budget Estimates for 1940-41.

General Discussion on Budget.

Mr. HUMAYUN KABIR: I was placing before the House yesterday considerations which to a certain extent go against the forecast made by the Hon'ble Finance Minister with regard to the financial position of the province. I regret very much that the Hon'ble Finance Minister is not present here to-day, and I think, Sir, since this House has no opportunity of discussing the grants in the Budget item by item, it is of very little use for us to discuss the Budget if the Finance Minister is not here.

Mr. PRESIDENT: Order, order. What have the Government got to say in this matter?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: We shall take down notes of the points that may be raised by the honourable member. The Finance Minister is unavoidably delayed. He will be here soon.

Mr. HUMAYUN KABIR: May we then postpone the discussion till the Finance Minister, to whom the remarks will be directed, is here? Let the House be adjourned.

Mr. PRESIDENT: Has he stated any reason why he is absent? When is he expected to come?

Mr. HUMAYUN KABIR: Sir, you have on many occasions stated on the floor of the House that if any Hon'ble Minister be not able to attend, he should inform you beforehand.

Mr. PRESIDENT: There is no doubt that this ordinary courtesy should be shown to this House when the Budget is being discussed. The Hon'ble Finance Minister is absent, but there may be some good reasons for his absence which we do not know.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: He has not been in good health, of late, and that is, I presume, one of the reasons why he is late in coming here. I am here to take down notes on the points raised on behalf of the Finance Minister. I will pass them on to my colleague and, I am sure, he will reply to the points raised.

Mr. KAMINI KUMAR DUTTA: Had it been an isolated instance in which the House has been treated with such scant courtesy, we would not have taken a strong view of the matter. It is only a repetition of old instances. So, on behalf of the House, I can say that we entertain a very, very strong feeling in this respect. Even as regards the presentation of the Budget (though personally I was not present) the Hon'ble Finance Minister's statement was not as comprehensive as it ought to have been.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: As an experienced lawyer, you know very well that even in the courts of law when a lawyer wants an adjournment of a case on personal grounds, it is always the practice to grant it. My submission is this, that the Hon'ble Finance Minister is not in good health. That is probably one of the reasons why he is rather late in arriving here. I am prepared to take down notes on his behalf and see that full consideration is given to any points that may be raised by my friends opposite.

Mr. PRESIDENT: Order, order. Sir Bijoy Prasad well knows that this House can only discuss the Budget generally and it cannot go into the details of the budget. So, the presence of the Finance Minister is absolutely necessary, in the opinion of the Chair. (Hear! hear!) Of course, I cannot force him to attend. I have already said that it is common courtesy to inform the Chair the reason why on such an occasion the Hon'ble Finance Minister himself is absent. If the House is of that opinion, then I shall have to adjourn the House. (Cries of "Yes, Sir; adjourn the House".)

I shall consult the opinion of the House on this point.

Mr. H. C. A. HUNTER: Mr. President, Sir, I think the House should be adjourned.

Mr. PRESIDENT: Raja Bahadur of Nashipur?

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: I also associate myself with what Mr. Hunter has said. As a matter of fact, the presence of the Finance Minister is necessary. The work of taking down notes can best be done by stenographers.

Mr. PRESIDENT: Khan Bahadur M. Abdul Karim?

Khan Bahadur M. ABDUL KARIM: I am also of the same opinion. (Cries of "Hear! hear!")

Adjournment.

The Council then adjourned till 2-15 p.m. on Friday, the 23rd February, 1940.

Members absent:

The following members were absent from the meeting held on the 22nd February, 1940:—

(1) Khan Bahadur Naziruddin Ahmad.
(2) Mr. Nur Ahmed.
(3) Rai Bahadur Keshab Chandra Banerjee.
(4) Rai Bahadur Manmatha Nath Bose.
(5) Mr. Humayun Reza Chowdhury.
(6) Mr. Narendra Chandra Datta.
(7) Khan Bahadur S. Fazal Ellahi.
(8) Mr. Kanai Lal Goswami.
(9) Mr. Mohamed Hossain.
(10) Khan Bahadur Syed Ghaziul Huq.
(11) Maulana Muhammad Akram Khan.
(12) Mr. W. B. G. Laidlaw.
(13) Mr. H. G. G. Mackay.
(14) Mr. Naresh Nath Mookerjee.
(15) Mr. J. B. Ross.
(16) Mr. W. F. Scott-Kerr.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES.

THE COUNCIL met in the Legislative Chamber of the Legislative Buildings, Calcutta, on Friday, the 23rd February, 1940, at 2-15 p.m. being the fourth day of the First Session, pursuant to section 62(2)(*a*) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Settlement training for Bengal Civil Service Officers.

18. Rai SURENDRA NARAYAN SINHA Bahadur (on behalf of Khan Bahadur Saiyed Muazzamuddin Hosain): Will the Hon'ble Minister in charge of the Revenue Department kindly state—

(*a*) how many members of the Bengal Civil Service (Senior or Junior) were given Settlement training during each of the last 10 years; how many of them were Hindus and how many Muslims; and

(*b*) how many members of the Bengal Civil Service (Senior or Junior) were employed in the Settlement Department during each of the last 10 years; how many of them were Muslims?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): A statement is laid on the table.

Statement referred to in the reply to question No. 18.

(*a*) Number of members of the Bengal Civil Service (Executive) and the Bengal Junior Civil Service who were given settlement training during each of the last 10 years.

Year.	Bengal Civil Service (Executive).			Bengal Junior Civil Service.		
	Muslims.	Hindus.	Total.	Muslims.	Hindus.	Total.
1930-31 ..	4	6	10	8	7	15
1931-32 ..	4	5	9	11	15	26
1932-33 ..	4	3	7	4	6	10
1933-34 ..	4	2	6	..	..	..
1934-35 ..	..	..	..	..	.	..
1935-36 ..	..	..	..	1	..	1
1936-37 ..	..	..	..	5	3	8
1937-38 ..	3	3	6	5	5	10(*x*)
1938-39 ..	5	7	12	12	14	26(*x*)
1939-40 ..	4	3	7	16	20	36

(*x*) This excludes one officer of the Anglo-Indian community.

(b) Number of members of the Bengal Civil Service (Executive) and the Bengal Junior Civil Service who were employed in the Settlement Department during each of the last 10 years.

Year.	Bengal Civil Service (Executive).			Bengal Junior Civil Service.		
	Muslims.	Hindus.	Total.	Muslims.	Hindus.	Total.
1930-31 ..	3	9	12	13	39	52
1931-32 ..	..	4	4	5	29	34
1932-33 ..	..	6	6	6	26	32
1933-34 ..	..	4	4	6	22	28
1934-35 ..	1	8	9	6	24	30
1935-36 ..	1	7	8	8	26	34
1936-37 ..	1	7	8	5	23	28
1937-38 ..	..	6	6	6	21	27
1938-39 ..	..	3	3	5	15	20
1939-40 ..	..	2	2	6	10	16

Permanent vacancy caused in the districts of Nadia and Murshidabad in the posts of clerks.

19. Mr. KADER BAKSH (on behalf of Khan Bahadur Ataur Rahman): Will the Hon'ble Minister in charge of the Judicial Department be pleased to state—

(a) how many posts of permanent clerks fell vacant in the districts of Murshidabad and Nadia in the year 1939-40;

(b) how many of them have been filled up by Muslims and how many by Hindus; and

(c) what is the total number of upper division clerks and how many of them are Muslims?

MINISTER in charge of the JUDICIAL DEPARTMENT (the Hon'ble Nawab Musharruff Hossain, Khan Bahadur): (a) Four posts fell vacant in each district but owing to the number of posts being already in excess of the sanctioned cadre in Nadia, two posts were left vacant and two filled up temporarily.

(b) In Nadia, one was filled up by a Muslim and one by a Hindu while in Murshidabad two by Muslims and the other two by Hindus, one of whom belonged to Scheduled Castes.

(c) Sixteen in each district, of whom there are two Muslims in Murshidabad and four in Nadia.

Motion of Privilege.

Mr. RANAJIT PAL CHOUDHURY: May I rise on a point of privilege? A certain matter arising out of some comments which had appeared in the "Azad" was referred to the Privilege Committee during the last session. This matter has been hanging fire for the last four or five months and we have not been able to come to any decision up till now. Considering that some of the members of the Privilege Committee are, at any rate the Chairman himself of the Privilege Committee is, due to retire within two or three months, may I move a motion that a meeting of the Privilege Committee be convened within three days to finally consider the pending matter of the "Azad" and the "Hindusthan Standard" and to submit their report within 7 days to the House

Mr. PRESIDENT: Motion moved: that at a meeting of the Privilege Committee be convened within three days to finally consider the pending matter of the "Azad" and the "Hindusthan Standard" and to submit their report within 7 days to the House.

The Hon'ble Khwaja Sir NAZIMUDDIN: On a point of order, Sir. Is this motion in order in view of the fact that the matter is already in the hands of the Privilege Committee?

Mr. PRESIDENT: If the Privilege Committee do not meet at all, then certainly the House has the right to ask the Committee to dispose of the matter referred to it. It is for the House to decide whether it would do so or not. The House has every right to give a direction that a meeting of the Committee should be held within a definite time.

The Hon'ble Khwaja Sir NAZIMUDDIN: In that case, would not notice be required of this motion?

Mr. PRESIDENT: No notice is necessary as regards a motion of Privilege.

Mr. LALIT CHANDRA DAS: May I rise in support of this motion?

Sir, this motion concerns the rights and privileges of the House and it is almost coming to the point of scandal that the Privilege Committee meeting could not be called and the members of it could not meet even in the course of the last six months. This matter is pending for a long time. Once there was a report on this matter and on an objection taken by certain members of the House the matter was referred back to the Privilege Committee for re-consideration. Now that re-consideration is overdue. If the Chairman of the Privilege Committee

cannot make time to convene a meeting thereof, it is high time that he should make room for others or if he does not do anything of that sort, the House should give direction that the Committee should meet. The matter should not be kept hanging, because it concerns the rights and privileges of the House.

Mr. KADER BAKSH: I think the time mentioned in the motion is too short. I, therefore, suggest an amendment that instead of three days, the time be extended to seven days. I think that would be convenient for giving notice and holding a meeting.

I formally move that instead of "three", the word "seven" be substituted and in place of the word "seven", the word "twelve" be substituted.

Mr. PRESIDENT: I understand that notices have been issued for holding the Committee meeting on the 26th instant. In that case, is it necessary to move this motion?

Begum HAMIDA MOMIN: We have not received any information about this meeting.

Mr. PRESIDENT: I understand from the office that notices have already been despatched. They will reach the honourable members in course of the day.

Mr. RANAJIT PAL CHOUDHURY: In that case, Sir, I would not press my motion provided the agenda of business for the meeting includes consideration of the reports on the "Azad" and the "Hindusthan Standard".

Begum HAMIDA MOMIN: On a point of information, Sir. During the last session after a resolution was passed here about the Privilege Committee meeting, there was a notice issued from the office saying that a meeting would be held and that you yourself would be present at that meeting. I would like to know if you will be present at the meeting to be held on the 26th instant.

Mr. PRESIDENT: I intimated that if it was the desire of the Committee that I should be present, I would attend so that the matter might be amicably settled. Unless I am specially asked by the Committee, I shall not be present.

Begum HAMIDA MOMIN: How shall it be intimated to you? Should it be through the office or directly?

Mr. PRESIDENT: The Committee has the right to desire the presence of anybody. I personally informed the Chairman that I would be present in the Committee meeting if only an amicable settlement was possible. Of course, it is for the Committee to finally settle the matter. If they can settle the matter amongst themselves without my advice, that would be more desirable.

Begum HAMIDA MOMIN: It would be better, Sir, if you be present.

Mr. PRESIDENT: Mr. Pal Choudhury, do you still press your motion?

Mr. RANAJIT PAL CHOUDHURY: If there is an agenda to that effect, I would not press it.

Mr. PRESIDENT: I understand from the office that notices have been issued for a meeting of the Privilege Committee being held on the 26th instant and that the agenda includes the consideration of the Fifth and Sixth reports which relate both to the "Azad" and "'Hindusthan Standard".

Mr. RANAJIT PAL CHOUDHURY: In that case, I would not press my motion.

Mr. PRESIDENT: Is it the pleasure of the House that the motion should be withdrawn?

The motion was then, by leave of the House, withdrawn.

NON-OFFICIAL BILLS

The Bengal Patni Taluks Regulation (Amendment) Bill, 1938, as reported by the Select Committee.

Khan Bahadur REZZAQUL HAIDER CHOWDHURY: I beg to move that the Bengal Patni Taluks Regulation Bill, as reported by the Select Committee, be taken into consideration.

Sir, the present Patni Taluks Regulation, VIII of 1819, was enacted——

Dr. RADHA KUMUD MOOKERJI: On a point of order, Sir. I find from the report circulated that the Select Committee has changed the original Bill beyond recognition and there is not a single line of the original Bill which has been endorsed by the Select Committee.

Mr. PRESIDENT: The Select Committee has the right to change every word of it. What is your objection? What is the point of order about?

Dr. RADHA KUMUD MOOKERJI: The Select Committee must move within the limits settled in the original draft of the Bill, but now from the report of the Select Committee we find that the report has taken the utmost possible liberty with the original draft of the Bill.

Mr. PRESIDENT: The Select Committee is not to go against the principle underlying the Bill to which the House commits itself and the Chairman of the Select Committee, I think it was Sir Bijoy Prasad Singh Roy, certainly would not have allowed alterations which were against the principle of the Bill. I, therefore, hold that it is in order.

Khan Bahadur REZZAQUL HAIDER CHOWDHURY: The present Patni Taluks Regulation was enacted in 1819 just to meet the situation then existing. Some of its provisions are very stringent and inequitable, and with the object of removing those defects the present Bill has been introduced.

The main provisions are embodied in clauses 2, 4 and 8. Clause 2 proposes to abolish the provision of security. The *patnidars* have got the right of alienation on condition of furnishing securities. The sale of the *Patni Taluk* itself is a sufficient security. So, there is no justification for demanding security. This power in the hands of the zemindars is often misused by their officers. On the other hand, if it is abolished, it will be no loss to the zemindars. The *patnidars* suffer from the rigours of this law without any corresponding gain to the zemindars.

The second important item is the provision for division of *patni* or distributing the rent thereof. It is within our knowledge how co-sharers suffer sometimes for the negligence of other co-sharers who sometimes act in collusion with the zemindars for their share of rent. The principle of this amendment was accepted by the House at the time of the last Bengal Tenancy (Amendment) Act.

The third important amendment gives power to the Collector to accept money at a time when the property is on the sale list. This will give relief to the defaulting tenure-holder to save his property. These are the main principles of the Bill, and I beg to move that the Bill, as reported by the Select Committee, be taken into consideration.

Mr. PRESIDENT: Motion moved: that the Bengal Patni Taluks Regulation (Amendment) Bill, 1938, as reported by the Select Committee, be taken into consideration.

Mr. H. C. A. HUNTER: Mr. President, Sir, may I submit one thing? We have just received a list of amendments, about 60 in number, and I submit that we have not had enough time to consider these amendments. I, therefore, suggest that the consideration of this Bill be deferred till the next non-official day.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, those amendments will follow later on. The motion now before the House—which is also the first motion—is that the Bill be taken into consideration.

Mr. PRESIDENT: The question before the House is: that the Bengal Patni Taluks Regulation (Amendment) Bill, 1938, as reported by the Select Committee, be taken into consideration.

(The motion was agreed to.)

Clause 1.

Mr. PRESIDENT: Clause 1 stand part of the Bill.

The question before the House is: that clause 1 stand part of the Bill.

(The motion was put and agreed to.)

Clause 2.

Mr. PRESIDENT: Clause 2 stand part of the Bill.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Mr. President, Sir, I beg to move that clause 2 of the Bill be omitted.

In this connection, I beg to draw the attention of the House to the fact that this Bill is for the benefit of the *patnidars* as well as of the zemindars. As a matter of fact, it would be a pity if any one were to think that the *patnidar* comes under the category of the "tenant". Legally, they are the tenants, but for all practical purposes they are the landlords of the holdings. I might add that after the land had been leased out by a zemindar to a *patnidar*, the zemindar divests himself of all the interests and rights. He is not allowed even to enter into his own land and all the rights and privileges of the landlord stand vested in the *patnidars*. Under him come the *raiyat*, the tenure-holder, the cultivating *raiyat* and all sorts of *raiyats*, and their prosperity depends on him. Sir, it would, therefore, be misleading to think that the *patnidars* come within the category of tenant.

Khan Bahadur REZZAQUL HAIDER CHOWDHURY: On a point of order, Sir. How is it relevant that the tenure-holder or the tenant——

Mr. PRESIDENT: Order, order. The Raja Bahadur will please proceed.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, I was referring to the tenure-holder, tenant, etc., simply to develop my argument and also for the benefit of my European friends, who may not labour under a mistaken notion that this Bill really seeks to give relief to the tenants but to the *patnidars*. My argument is that to give relief to the *patnidar* is to give relief to the landlords and not to the tenants. After the leasing out of the *patni*, the zemindar loses, for all practical purposes, the rights and concerns and interests therein. So, if any relief is to be given, it should be given to the landlord. To dispel misunderstanding on the part of my friends over there, I just made it clear that giving relief to the *patnidar* is giving relief to the landlords and not to the tenant, as is commonly understood. Sir, as my friend Dr. Mookerji said, the Bill as it has emerged from the Select Committee is quite different from the original one. There is not a single line, not a single word, that has been accepted or retained by the Select Committee. The only thing that has been retained is the title of the Bill, viz., the Bengal Patni Taluks Regulation (Amendment) Bill, 1938. Every other word, every letter, has been altered. So I do not know——

Mr. PRESIDENT: Order, order. May I point out to the honourable member that he himself was a member of the Select Committee and that he affixed his signature to the statement that "the Bill has not been substantially altered by our recommendation and we do not consider that it requires re-publication".

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: That is so, Sir. What I mean to say is that the wording of the Bill has been altered and not the subject-matter. Still, I do not want that it should be re-published. Further, Sir, if you look at my minute of dissent, you will find that I have already stated that it would be better to have it re-circulated, but I do not press for its circulation now. Now, Sir, the present clause, viz., clause 2, deals with the deposit of security to the zemindar. According to this clause, half of the annual rent should be deposited as security. There is some misunderstanding among some of my friends that this deposit is being given to the zemindar for his gain. This, however, is not the case. It is a mere deposit and nothing else. If you go through the relevant clause, Sir, you will find that it is not essential that money should be deposited. The deposit may be in the form of Government security or

even of landed property. There is no question of money here. So, there would be no hardship if one cannot deposit money in cash. Whatever the deposit, he will get it back when he ceases to be a *patnidar*. This is only for the purpose of realising rents from the *patnidars*.

Now, the next question that arises is whether there is any loss in depositing security in cash. There is not any, because the *patnidar* will get the usual rate of interest on his deposit, be it cash or Government security. On the other hand, he will be relieved of the trouble of going to the Treasury or to bank to draw interest. That work will be done by the zemindar who will remit the same to the *patnidar*. If it is landed property, then he will enjoy the landed property. Only the document will be there. So, there is no loss in either case.

Now, the question arises whether this deposit can be forfeited or not. Yes, it can be, but only on one occasion and that will be when the *patnidar* makes any default and as a result the *patni* tenure is put to sale in a Court proceeding. Even then only in case the sale proceeds do not cover the six months' rent can forfeiture take place, and that too to the extent of covering the amount of the difference only. Moreover, Sir, the *patnidar* is not going to pay this six months' rent from his own pocket. He will realise it from his tenants at a rate of interest higher than what he will pay the zemindar. So, he has nothing to lose by forfeiture also and there is no case of hardship at all. On the other hand, if this clause be omitted, as recommended by the Select Committee, the result would be that there would be a series of litigations. By omitting this clause, the *patnidar* will not be relieved of his dues, because for the balance he has to pay there will be another suit and his movables and immovables will be attached. So, instead of going on with litigation, this deposit has been provided for. As there is no hardship on the *patnidar*, I am for omitting this clause 2. Another effect of omitting this clause will be the elimination of fraud. Someone may sell his holding to another in *benami*. The latter will enjoy the holding and collect the rent, and at the same time he will not have to pay any security and the zemindar will be nowhere. There have been cases also where *patnidar* leases out the land to tenants at a lower rate of rent and that reduces the annual *jama*. Security deposit is essential for this reason as well.

With these words, Sir, I beg to move that clause 2 be omitted.

Mr. PRESIDENT: Amendment moved: that clause 2 of the Bill be omitted.

Mr. KAMINI KUMAR DUTTA: Sir, I oppose this amendment. Many things have been said in support of the claim for retaining the clause about depositing a security for a *patni taluk* or tenure. Now, this Patni Regulation was enacted so far back as the year 1819

when there might have been a reasonable apprehension in the minds of the lessors creating the *patni* that perhaps the profit of the *patni* might not suffice for the payment of the *patni* rent. So, in order to safeguard the due realisation of the *patni* rent, this clause was then enacted, in order that it might induce the *patnidar* to be punctual in the payment of his dues. The time has now changed. Besides the *patni* tenure, there are now other kinds of tenures which are governed by the Bengal Tenancy Act, and no such disability as the deposit of a security is attached to these tenures. Of all the existing tenures in the province, *patni* does not form the major part. In Western Bengal, there are more *patnis* than in East Bengal. In East Bengal, almost 98 per cent. of tenures are of a different character altogether. So, there is no reason why in the year 1940 the same disability which was thought necessary to be attached to a particular kind of tenure in the year 1819, should be allowed to remain. It has been said that there may be *benami* transfers, but after all rent is the first charge on the tenure. The *patnidar* remains liable for the rent and if there is such a *patni*, the owner of which would not be at all anxious to retain it or the retention of which will be unprofitable, *i.e.*, the profit accruing from that would not be sufficient for the payment of the rent due, the sooner it is made *khas* by the zemindar, the better. I oppose this amendment vehemently.

Khan Bahadur REZZAQUL HAIDER CHOWDHURY: I oppose this amendment. The ground taken by the Raja Bahadur is that it leads to fraud and possibly he means that if the security provision is removed, there might be a loss of rent to the zemindar. I think this apprehension is more imaginary than real. The zemindar at the present moment has got the power to put the property to sale every six months. It is reasonably expected that the property in question will fetch that amount. So, there cannot be any question of fraud in this case, as alleged by the Raja Bahadur.

There are other difficulties too. If there is a provision like that, the property is not likely to fetch a fair price, because the purchaser will be at the mercy of the zemindar. It is for the zemindar to recognise him or not. If this provision be removed, the property is likely to fetch a much higher price. With these few words, I oppose the amendment.

Mr. PRESIDENT: The question before the House is: that clause 2 of the Bill be omitted.

(The motion was negatived.)

Mr. PRESIDENT: The question before the House is that clause 2 stand part of the Bill.

(The motion was agreed to.)

Clause 3.

Mr. PRESIDENT: Clause 3 stand part of the Bill.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that for the existing clause 3 of the Bill, the following be substituted: —

3. In section 6 of the said Regulation, for the words commencing with "It is hereby provided" and ending with "his special sanction," the following shall be substituted:—

"It is hereby provided that the rules of section 5 relating to fee for alienation shall be held to apply to transfers of any fractional portion of or the entire interest in, a *patni taluk*."

Sir, the Patni Taluks Regulation does not provide for partition of *patni taluk* at present. The Bill provides for partition and there is a proposal for doing away with security. In fact, the House has already accepted that amendment. Now, the landlord had the right to demand security in case of transfer of *patni* (of course the *patni* always implies a complete *patni*). We are now providing for transfer of part *patni* also. My proposal amounts to this: that no security would be payable by the *patnidar* or can be demanded by the zemindar even in case of a part transfer, just to make it consistent with the amendment which has been accepted by the House.

Mr. PRESIDENT: Amendment moved: that for the existing clause 3 of the Bill, the following shall be substituted:—

3. In section 6 of the said Regulation, for the words commencing with "It is hereby provided" and ending with "his special sanction," the following shall be substituted:—

"It is hereby provided that the rules of section 5 relating to fee for alienation shall be held to apply to transfers of any fractional portion of or the entire interest in, a *patni taluk*."

Khan Bahadur REZZAQUL HAIDER CHOWDHURY: I think, Sir, that this amendment is redundant. Under clause 3 as it stands, the landlord can demand alienation fee in case of a partial transfer even, because it is intended to remove the last portion of section 6 which commences with "it is hereby provided" and ends with "special sanction." The purchaser of a partial *patni taluk* was exempted from paying the transfer fee as well as the security. So, I think it is not necessary. The clause as it stands is quite enough and no amendment is necessary.

Mr. PRESIDENT: The question before the House is: that for the existing clause 3 of the Bill, the following shall be substituted:—

3. In section 6 of the said Regulation, for the words commencing with "It is hereby provided" and ending with "his special sanction," the following shall be substituted:—

"It is hereby provided that the rules of section 5 relating to fee for alienation shall be held to apply to transfers of any fractional portion of or the entire interest in, a *patni taluk*."

(The motion was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 3, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 4.

Mr. PRESIDENT: Clause 4 stand part of the Bill.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: With your permission, may I amend my amendment to clause 6B sub-clause (*b*), on the following lines? The amendment of which I gave notice in the printed list runs as follows:—

"That in clause 4 of the Bill, for proposed section 6B, the following section shall be substituted, namely:—

6B. Notwithstanding anything contained in any other Act—

(*a*) the provisions of section 88 of the Bengal Tenancy Act, 1885, shall apply *mutatis mutandis* to the distribution of rent payable in respect of a *patni taluk* with the substitution of the words "one hundred rupees" for the words "two rupees" in the proviso (*b*) to sub-section (2) of the said section;

(*b*) the provisions of the Estates Partition Act, 1897, shall apply *mutatis mutandis* to the partition of a *patni taluk*.

Now, what I propose to substitute for (*b*) is this:—

"(*b*) It shall be optional for every co-sharer proprietor of a joint undivided *patni taluk*, either to institute a suit in a competent Civil Court for partition of such *taluk* or to partition such *taluk* according to the provisions of the Estates Partition Act, 1897, which Act shall apply *mutatis mutandis* to such partition."

So, instead of providing for partition only according to the provisions of the Estates Partition Act, I wish also to provide that the *patnidar* might have a partition with the help of the Civil Court.

Mr. PRESIDENT: I take it that there is no objection.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I move my amendment formally?

Mr. PRESIDENT: Yes.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that in clause 4 of the Bill, for proposed section 6B, the following section shall be substituted, namely—

6B. Notwithstanding anything contained in any other Act—

(*a*) the provisions of section 88 of the Bengal Tenancy Act, 1885, shall apply *mutatis mutandis* to the distribution of rent payable in respect of a *patni taluk* with the substitution of the words "fifty rupees" for the words "two rupees" in the proviso (*b*) to sub-section (*2*) of the said section.

(*b*) It shall be optional for every co-sharer proprietor of a joint undivided *patni taluk* either to institute a suit in a competent Civil Court for partition of such *taluk* or to partition such *taluk* according to the provisions of the Estates Partition Act, 1897, which Act shall apply *mutatis mutandis* to such partition."

Mr. PRESIDENT: Motion moved: that in clause 4 of the Bill, for proposed section 6B, the following section shall be substituted, namely—

6B. Notwithstanding anything contained in any other Act—

(*a*) the provisions of section 88 of the Bengal Tenancy Act, 1885, shall apply *mutatis mutandis*, to the distribution of rent payable in respect of a *patni taluk* with the substitution of the words "fifty rupees" for the words "two rupees" in the proviso (*b*) to sub-section (*2*) of the said section.

(*b*) It shall be optional for every co-sharer proprietor of a joint undivided *patni taluk* either to institute a suit in a competent Civil Court for partition of such *taluk* or to partition such *taluk* according to the provisions of the Estates Partition Act, 1897, which Act shall apply *mutatis mutandis* to such partition."

Mr. PRESIDENT: The question before the House is—

"That in clause 4 of the Bill, for proposed section 6B the following section shall be substituted, namely—

6B. Notwithstanding anything contained in any other Act—

(*a*) the provisions of section 88 of the Bengal Tenancy Act, 1885, shall apply *mutatis mutandis*, to the distribution of rent payable in respect of a *patni taluk* with the substitution of the words "fifty rupees" for the words "two rupees" in the proviso (*b*) to sub-section (*2*) of the said section.

(*b*) It shall be optional for every co-sharer proprietor of a joint undivided *patni taluk* either to institute a suit in a competent Civil Court for partition of such *taluk* or to partition such *taluk* according to the provisions of the Estates Partition Act, 1897, which Act shall apply *mutatis mutandis* to such partition."

(The motion was agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, before you leave clause 4——

Mr. PRESIDENT: There are other amendments by the Raja Bahadur of Nashipur.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, I don't want to move them.

Mr. PRESIDENT: The question before the House is: that clause 4, as amended, stand part of the Bill.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Could I, Sir, make one humble suggestion? The suggestion is that in sub-section (*1*) of proposed section 6A, for the words "to be published", the words "to be served or published" shall be substituted.

It is really the Raja Bahadur's amendment. Let me read the whole thing, Sir, for the information of the House. It runs as follows:—

"(*a*) in second paragraph of sub-section (*1*) of proposed section 6A for the words "to be published" the words "to be served or published" shall be substituted; and

(*b*) in sub-section (*2*) of the said section for the words "from the time of publication of the copy of application under sub-section (*1*)", the following shall be substituted, namely:—

'from the time of service or publication of the copy of application under sub-section (*1*) whichever is later'."

Sir, the idea underlying my amendment is this. We are now making provision for dividing the *patnis*. If the rent of a particular share cannot be realised by the sale of that share, on the analogy of section 14 of the Revenue Sales Act, we are providing for the realisation of the arrear rents by the sale of the whole tenure, the entire *patni*. Now, it is necessary that the co-sharer *patnidars* should receive notice of the sale, because they might not know that the whole *patni* was going to be put up for sale and that thereby their interests were going to be affected. Now, in the case of revenue sales——

Mr. PRESIDENT: Order, order. Sir Bijoy, do you want to amend any part of 6B?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No, Sir. It is 6A that I am talking of.

Mr. PRESIDENT: 6B has two parts (*a*) and (*b*). Do you want to alter that portion in any way?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No, Sir. My amendment relates to 6A.

Mr. PRESIDENT: Your amendments are so very confusing that it is impossible to understand which one you are moving and further, you have given notice of so many short-notice amendments that it is next to impossible to keep track of them.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I am extremely sorry, Sir.

Rai Sahib JATINDRA MOHAN SEN: I beg to submit that we have not yet received any notice of these amendments.

Mr. PRESIDENT: Order, order. Unless there is unanimous agreement in the whole House, I am afraid the Chair will not allow the Hon'ble Minister to move such short-notice amendments. Is there any objection to the amendments proposed by the Hon'ble Minister being moved?

(Cries of "No, no.")

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, may I make myself clear? What I want to have is that in the second paragraph of sub-section (*1*) of proposed section 6A, for the words "to be published", the words "to be served or published" shall be substituted; and

that in sub-section (*2*) of the said section, for the words "from the time of publication of the copy of application under sub-section (*1*)", the following shall be substituted, namely:—

"from the time of service or publication of the copy of application under sub-section (*1*), whichever is later."

Mr. PRESIDENT: Order, order. Amendment moved: that—

(*a*) in second paragraph of sub-section (*1*) of proposed section 6A, for the words "to be published," the words "to be served or published" shall be substituted; and

(*b*) in sub-section (*2*) of the said section, for the words "from the time of publication of the copy of application under sub-section (*1*)", the following shall be substituted, namely:—

"from the time of service or publication of the copy of application under sub-section (*1*), whichever is later."

Khan Bahadur REZZAQUL HAIDER CHOWDHURY: I accept amendment.

Mr. PRESIDENT: The question before the House is: that—

(*a*) in second paragraph of sub-section (*1*) of proposed section 6A, for the words "to be published," the words "to be served or published" shall be substituted; and

(*b*) in sub-section (*2*) of the said section, for the words "from the time of publication of the copy of application under sub-section (*1*)", the following shall be substituted, namely:—

"from the time of service or publication of the copy of application under sub-section (*1*), whichever is later."

(The motion was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 5.

Mr. PRESIDENT: Clause 5 stand part of the Bill.

(After a pause.) The question before the House is: that clause 5 tand part of the Bill.

(The motion was agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I put in one word, Sir?

Clause 6.

Mr. PRESIDENT: Order, order. Clause 6 stand part of the Bill.

(After a pause.) The question before the House is: that clause 6 stand part of the Bill.

(The motion was agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I have already handed over a copy of an amendment of mine which relates to clause 4——

Mr. PRESIDENT: That stage is already over. We have already disposed of clause 4.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I do not want to move it but I am afraid, Sir, that one of my important amendments on the list has been passed over.

Mr. PRESIDENT: I am so sorry. It cannot be helped. You should have been more alert.

Clause 7.

Mr. PRESIDENT: Clause 7 stand part of the Bill.

(After a pause.) The question before the House is: that clause 7 stand part of the Bill.

(The motion was agreed to.)

Clause 8.

Mr. PRESIDENT: Clause 8 stand part of the Bill.

(After a pause.) The question before the House is: that clause 8 stand part of the Bill.

Dr. RADHA KUMUD MOOKERJI: May I submit one point, Sir? Since a serious flaw has been detected as regards clause 4, can we not go back and consider it?

Mr. PRESIDENT: No, I am afraid not. It will not be passed by this House alone!

(The motion was agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I want to insert the word "solely" after the word "reversed," which has been wrongly printed as "reserved."

Mr. PRESIDENT: Is there any objection to this short-notice amendment to the original amendment being moved?

(Cries of "No, no.")

Mr. PRESIDENT: As there is no objection, I take it that the House agrees to this short-notice amendment. I shall now read out the amendment as revised.

Motion moved: that for the proviso to sub-clause (*a*) of clause 8, the following proviso be substituted:—

"Provided that, notwithstanding anything contained in this Regulation the right of the zemindar to make the sale shall not be stopped by any party *nor shall the sale be reversed* solely on the ground that a notice or other document mentioned in section 8 was not served personally on the defaulters or any of them."

Khan Bahadur REZZAQUL HAIDER CHOWDHURY: Sir, I accept this amendment.

Mr. PRESIDENT: The question before the House is: that for the proviso to sub-clause (*a*) of clause 8, the following proviso be substituted:—

"Provided that, notwithstanding anything contained in this Regulation the right of the zemindar to make the sale shall not be stopped by any party *nor shall the sale be reversed* solely on the ground that a notice or other document mentioned in section 8 was not served personally on the defaulters or any of them."

(The motion was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 8, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 9.

Mr. PRESIDENT: Clause 9 stand part of the Bill.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I have my amendments on clause 9.

Mr. PRESIDENT: Where are your amendments? Have you given any notice of them?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir.

Rai Sahib JATINDRA MOHAN SEN: Mr. President, Sir, we feel it extremely difficult to follow the proceedings of the House to-day as they are being hurried through. As a matter of fact you know, Sir, the Hon'ble the Revenue Minister found himself at sea when he noticed that one of his own amendments, which was considered to be very important, was passed over through inadvertence on his part. Further, Sir, we have not received copies of any of these amendments.

Mr. PRESIDENT: Order, order. You can raise any point of order when a particular amendment is moved of which sufficient notice has not been given. If it has not the support of the members of the House, then I shall not allow that particular amendment to be moved.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that in section 14A of the said Regulation—

(*a*) in paragraph (*b*) of the first clause, after the words "together with interest", the words "up to the date of sale" shall be inserted; and

(*b*) after seventh clause the following clause shall be inserted, namely:—

"*Eighth.*—The provisions of this section shall apply to the setting aside of the sale of a share or portion of a *patni taluk* whenever a separate account shall have been ordered to be opened in respect of such share or portion under section 6A."

Mr. PRESIDENT: Amendment moved—

that for clause 9, the following be substituted—

9. In section 14A of the said Regulation—

(*a*) in paragraph (*b*) of the first clause after the words "together with interest" the words "up to the date of sale" shall be inserted; and

(*b*) after seventh clause the following clause shall be inserted, namely:—

"*Eighth.*—The provisions of this section shall apply to the setting aside of the sale of a share or portion of a *patni taluk* whenever a separate account shall have been ordered to be opened in respect of such share or portion under section 6A."

Mr. PRESIDENT: Khan Bahadur Rezzaqul Haider Chowdhury.

Khan Bahadur REZZAQUL HAIDER CHOWDHURY: I accept this amendment. Under section 14A, the defaulting tenure-holder has got the option to deposit the money within one month and the same privilege is going to be given to the co-sharer when he opens a separate account.

Mr. PRESIDENT: The question before the House is: that—

9. In section 14A of the said Regulation—

(*a*) in paragraph (*b*) of the first clause after the words "together with interest" the words "up to the date of sale" shall be inserted; and

(*b*) after seventh clause the following clause shall be inserted, namely:—

"*Eighth*.—The provisions of this section shall apply to the setting aside of the sale of a share or portion of a *patni taluk* whenever a separate account shall have been ordered to be opened in respect of such share or portion under section 6A."

(The motion was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 9, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 10.

Mr. PRESIDENT: Clause 10 stands part of the Bill.

(After a pause.) The question before the House is: that clause 10 stand part of the Bill.

(The motion was agreed to.)

Mr. PRESIDENT: Clause 11 stands part of the Bill.

Khan Sahib ABDUL HAMID CHOWDHURY: I beg to move that in clause 11 of the Bill, for the entire fifth paragraph of the proposed section 17A, the following be substituted:—

"A person becoming entitled to a *patni taluk* by sucession or by transfer shall not be entitled to receive by registered post the notices referred to in clauses second and third of section 8, unless the duties imposed upon him by this section have been performed."

Sir, this amendment is meant only to remove hardship which, I think, the sub-clause (*b*) of the fifth paragraph of the Bill, clause 11 will cause to those who will become entitled to a *patni taluk* by succession or by transfer. Under the Bill, clause 11, as it now stands, it has been provided that one acquiring a *patni taluk* by succession or by transfer will be debarred from the right of recovery by suit or other proceeding any rent payable to him unless the duties imposed upon him by this section regarding notice of the succession or transfer, as the case may be, together with his name and address to be given to the Collector in prescribed form as well as payment of the process fee for the service of the notice on the zamindar. Sir, by my amendment I propose to remove this disability which has no justification. This is the only object of my amendment. With these few words I commend my amendment to the acceptance of the House.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: I rise to oppose it. There will be practical difficulties in this matter. As a matter of fact, if the successor does not register his name, it will be difficult to sue him with a post-card notice, because no one will know the name of the successor. If the intention of the clause is to send a personal notice also, in that case the name of the successor should be registered. Otherwise, how will the person to whom the notice is to be sent be known?

Khan Bahadur REZZAQUL HAIDER CHOWDHURY: Possibly, the Raja Bahadur could not follow the amendment proposed. It would mean only that those who want to take advantage of section 8 to have a registered notice, must register their names in the *zemindari sherista*. That is the provision. So, there will be no difficulty. I accept the amendment.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I think the Raja Bahadur has made his objection under a misapprehension. In fact, his object will be fully served by the amendment which has been moved by Khan Sahib Abdul Hamid Chowdhury, namely—

"A person becoming entitled to a *patni taluk* by succession or by transfer shall not be entitled to receive by registered post the notices referred to in clauses second and third of section 8, unless the duties imposed upon him by this section have been performed."

That is to say, unless a person or his successor in interest gets his name registered, he will not be entitled to get notice by registered post. So, that meets the objection of the Raja Bahadur.

Mr. PRESIDENT: The question before the House is: that in clause 11 of the Bill for the entire fifth paragraph of the proposed section 17A, the following be substituted:—

"A person becoming entitled to a *patni taluk* by succession or by transfer shall not be entitled to receive by registered post the notices referred to in clauses second and third of section 8, unless the duties imposed upon him by this section have been performed."

(The motion was agreed to.)

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: I beg to move that at the end of paragraph 1 of clause 11 of the Bill, the following be added, namely:—

"together with the landlord fee as provided under sections 12 and 15 of the Bengal Tenancy Act."

I think there is some clerical mistake in this clause. The object of the Bill is to bring the *patni* tenure in the same category with that of the tenure as defined in the Bengal Tenancy Act. So, it is desirable that there should be a landlord fee for mutation. Under the Bengal Tenancy Act, 100 per cent. of the annual *jama* has been provided as the maximum. So, I think this should be added.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I suggest that if instead of your wording you accept my wording, it would be better.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: I have no objection to accept that wording.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: With your permission, I beg to move: that after first paragraph of proposed section 17A, the following shall be added, namely:—

"and shall send with the notice a fee of such amount as is specified in sections 12 and 15 of the Bengal Tenancy Act, 1885."

Khan Sahib ABDUL HAMID CHOWDHURY: The Bill, clause 11, has already been amended.

Mr. PRESIDENT: It has been partially amended.

Amendment moved: that after the first paragraph of proposed section 17A, the following shall be added, namely:—

"and shall send with the notice a fee of such amount as is specified in sections 12 and 15 of the Bengal Tenancy Act, 1885."

Khan Bahadur REZZAQUL HAIDER CHOWDHURY: I oppose this amendment. I am not against giving alienation fee in case of a partial transfer even. Sections 12 and 15 are not applicable in the case of the *patnidar*. If this amendment is accepted, complications will arise. Unless it is modified, we cannot accept it.

Mr. PRESIDENT: The question before the House is: that after first paragraph of proposed section 17A, the following shall be added, namely:—

"and shall send with the notice a fee of such amount as is specified in sections 12 and 15 of the Bengal Tenancy Act, 1885."

The House then divided with the following result:—

AYES—16.

Chakraverti, Mr. Shrish Chandra.
Choudhury, Mr. Moazzemail.
Das, Mr. Lalit Chandra.
Dutta, Mr. Kamini Kumar.
Goswami, Mr. Kanai Lal.
Kabir, Mr. Humayun.
Maitra, Rai Bahadur Brojendra Mohan.
Mookerjee, Mr. Naresh Nath.
Mookerji, Dr. Radha Kumud.
Mukherji, Rai Bahadur Satis Chandra.
Ormond, Mr. E. C.
Pal Choudhury, Mr. Ranajit.
Roy, Mr. Amulya Dhone.
Sen, Rai Sahib Jatindra Mohan.
Sinha, Rai Bahadur Surendra Narayan.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.

NOES—18.

Ahmed, Mr. Meshahuddin.
Barua, Dr. Arabinda.
Chowdhury, Khan Sahib Abdul Hamid.
Chowdhury, Mr. Khorsehed Alam.
Chowdhury. Mr. Hamidul Huq.
Chowdhury, Khan Bahadur Rezzaqul Haider.
D'Rozario, Mrs. K.
Esmail, Alhaj Khwaja Muhammad.
Haider, Nawabzada Kamruddin.
Hossain, Mr. Latafat.
Karim, Khan Bahadur M. Abdul.
Khan, Khan Bahadur Muhammad Asaf.
Momin, Begum Hamida.
Rahman, Khan Bahadur Ataur.
Rahman, Khan Bahadur Mukhlesur.
Rashid, Khan Bahadur Kazi Abdur.
Shamsuzzoha, Khan Bahadur M.
Singh Roy, Mr. Sailswar.

Mr. PRESIDENT: Order, order. The House has divided: the "Ayes" being 16 and the "Noes" 18, the amendment is negatived.

Clause 11.

Mr. PRESIDENT: Clause 11 stand part of the Bill.

(After a pause.) The question before the House is: that clause 11, as amended, stand part of the Bill.

(The motion was agreed to.)

Short Title and Preamble.

Mr. PRESIDENT: The question before the House is: that the Short Title and Preamble be added to the Bill.

(The motion was agreed to.)

Khan Bahadur REZZAQUL HAIDER CHOWDHURY: Sir, I beg to move that the Bengal Patni Taluks Regulation (Amendment) Bill, 1938, as settled in the Council, be passed.

Mr. PRESIDENT: Motion moved: that the Bengal Patni Taluks Regulation (Amendment) Bill, 1938, as settled in the Council, be passed.

The question before the House is: that the Bengal Patni Taluks Regulation (Amendment) Bill, 1938, as settled in the Council, be passed.

(The motion was agreed to.)

The Bengal Abolition of Dowry Bill, 1938.

Rai SURENDRA NARAYAN SINHA Bahadur: Mr. President, Sir, I beg to move that the Bengal Abolition of Dowry Bill, 1938, be taken into consideration. This was introduced in this Council as far back as August, 1938, when it was published in the "Calcutta Gazette." Immediately on its publication it was supported by associations like the Bengal Hindu Sabha, the Kayastha Sabha, and other similar bodies. Attempts have been made by me every session to have it considered either for Select Committee or for final passing. It was only during the last session that I succeeded in getting it discussed by the Council and it was about to be taken into consideration when the Hon'ble Minister in charge of the Judicial Department asked for formal circulation before consideration. I was induced to make the conclusion that the Government would not have any objection to its passing after such formal circulation. Various opinions have been elicited, but all progressive opinions are in its favour. Since the introduction of Provincial Autonomy, other provinces, like Sind and Bihar, have placed similar Bills on their Statute Book. I hope no member would like to see Bengal lagging behind. I think it will not be necessary for me to enlarge on the merits of the Bill. The evils of the dowry system are more rampant in Bengal than in any other province, and no time should be lost in passing the Bill. No Select Committee is required for a short measure, like this, and the alterations and improvements suggested may be effected at the consideration stage.

As my present term of membership expires by the first week of April, I hope the members will pass it before that time as a special case without waiting for the labours of a Select Committee.

With these words, Sir, I commend my Bill to the consideration of the House.

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I further beg to submit that I have already asked for your permission to move in this House for the consideration of the Bill, and I now also do formally move for your permission in allowing me to move this motion for consideration by the House.

Mr. PRESIDENT: Before I place this motion before the Council, I find that under section 53(4) of the Bengal Legislative Council Procedure Rules, the honourable member cannot move this motion for consideration at this stage unless, in exercise of its discretionary powers the Chair suspends the rule. He should have moved that the Bill be referred to a Committee of the whole House or to a Select Committee. I should like to hear if there is any objection from honourable members to suspending this rule. Ordinarily, the Rai Bahadur should have moved for reference of his Bill to a Select Committee.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, we received notice of this amendment just on the 20th of this month and not even three days have passed since then. Unless we get sufficient time to consider the matter thoroughly, we cannot be in a position to make up our minds in the matter. No doubt, I approve of the principle of the Bill but the matter should go to a Select Committee. Unless it is thrashed out in the Select Committee, it will not be possible for this House to come to a decision about the details of the Bill. So, I propose that instead of hurrying the matter in the way suggested by my friend, the mover, it should first of all be discussed threadbare in the Select Committee. I, therefore, request the Chair as well as my friend, Rai Surendra Narayan Sinha Bahadur, that we should not unnecessarily hurry the matter, as the matter is full of difficulties and complications. As far as my knowledge of the thing goes, it is so complicated that unless it is thoroughly discussed by a Select Committee, it would not be possible for us to come to any definite conclusions. I, therefore, appeal to you, Sir, to consider this and to see that the Select Committee actually decides the matter and the Bill is brought in here after that.

Mr. PRESIDENT: Sir, Bijoy, I should like to have your views on this particular point.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I agree, Sir, with my Hon'ble colleague, the Nawab Bahadur that this Bill is of a far-reaching character and will affect the society considerably. As such, the House ought not to commit itself to its principle before the matter is considered in detail in a Select Committee. I, therefore, should certainly prefer reference of the Bill to a Select Committee to consideration of the same on the floor of this House just now at such a very short notice.

Mr. PRESIDENT: Mr. Kamini Kumar Dutta, the Chair has been requested to suspend Rule 53 of the Bengal Legislative Council Procedure Rules in connection with the motion already moved by Rai Bahadur Surendra Narayan Sinha. What are your views on the matter?

Mr. KAMINI KUMAR DUTTA: Sir, I agree with the two Hon'ble Ministers that a measure of this nature should be very carefully gone into and that for that purpose it ought to go to a Select Committee.

Mr. PRESIDENT: I have heard the opinions expressed on behalf of Government as well as on behalf of the Opposition and after hearing them, I am not disposed to suspend the rule in this case. This Bill should now go to a Select Committee.

Rai SURENDRA NARAYAN SINHA Bahadur: In view of the opinion expressed by the Chair, I hope the motion of Mr. Mesbahuddin Ahmed for reference of the Bill to a Select Committee will be accepted.

Mr. PRESIDENT: Order, order, it is only the honourable member in charge of the Bill who can move for reference to select committee and not anybody else. As you have not given any notice of referring the Bill to a select committee, it cannot be done now.

The Bengal Patni Taluks Regulation (Amendment) Bill, 1939.

Khan Sahib ABDUL HAMID CHOWDHURY: I beg to move that the Bengal Patni Taluks Regulation (Amendment) Bill, 1939, be referred to a Select Committee consisting of—

(1) The Hon'ble Sir Bijoy Prasad Singh Roy, Minister-in-charge of the Revenue Department,

(2) Mr. Kamini Kumar Dutta,

(3) Mr. Naresh Nath Mookerjee,

(4) Mr. Saileswar Singh Roy,

(5) Khan Bahadur Naziruddin Ahmad,

(6) Mr. Khorshed Alam Chowdhury,
(7) Mr. Kader Baksh,
(8) Mr. H. C. A. Hunter,
(9) Raja Bhupendra Narayan Sinha Bahadur,
(10) Mr. Mesbahuddin Ahmed, and
(11) the mover,

with instructions to submit their report by the 31st March, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

This is a very short Bill and it has become shorter still by the passing of a similar Bill just now at the instance of the Khan Bahadur Rezzaqul Haider Chowdhury. I find a notice given on behalf of Government for circulation of this Bill, but I can assure this House that this Bill is too short to require circulation. As a matter of fact, almost all the clauses of the Bill have been considered by the one which has just been passed. There is only one clause which requires to be considered. It can be considered in a Select Committee. So, I would appeal to the Hon'ble Minister in charge of the Revenue Department not to move his motion for circulation, and I appeal to the House to accept this proposition of mine.

Mr. PRESIDENT: Motion moved that the Bengal Patni Taluks Regulation (Amendment) Bill, 1939, be referred to a Select Committee consisting of—

(1) The Hon'ble Sir Bijoy Prasad Singh Roy, Minister-in-charge of the Revenue Department,
(2) Mr. Kamini Kumar Dutta,
(3) Mr. Naresh Nath Mookerjee,
(4) Mr. Saileswar Singh Roy,
(5) Khan Bahadur Naziruddin Ahmad,
(6) Mr. Khorshed Alam Chowdhury,
(7) Mr. Kader Baksh,
(8) Mr. H. C. A. Hunter,
(9) Raja Bhupendra Narayan Sinha Bahadur,
(10) Mr. Mesbahuddin Ahmed, and
(11) the mover,

with instructions to submit their report by the 31st March, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I am inclined to agree with my honourable friend the mover of the Bill. After the Bill which the House has just accepted, namely, the Bill of Khan Bahadur Rezzaqul Haider Chowdhury, this Bill is now practically reduced to one clause. I have no objection to the Bill being referred to a Select Committee and I do not move my motion.

Mr. PRESIDENT: The question before the House is that the Bengal Patni Taluks Regulation (Amendment) Bill, 1939, be referred to a Select Committee consisting of—

(1) The Hon'ble Sir Bijoy Prasad Singh Roy, Minister-in-charge of the Revenue Department,

(2) Mr. Kamini Kumar Dutta,

(3) Mr. Naresh Nath Mookerjee,

(4) Mr. Saileswar Singh Roy,

(5) Khan Bahadur Naziruddin Ahmad,

(6) Mr. Khorshed Alam Chowdhury,

(7) Mr. Kader Baksh,

(8) Mr. H. C. A. Hunter,

(9) Raja Bhupendra Narayan Sinha Bahadur,

(10) Mr. Mesbahuddin Ahmed, and

(11) the mover,

with instructions to submit their report by the 31st March, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

(The motion was agreed to.)

The Bengal Local Self-Government (Amendment) Bill, 1937.

Mr. HUMAYUN KABIR: I beg to move that the Bengal Local Self-Government (Amendment) Bill, 1937, be referred to a Select Committee consisting of—

(1) The Hon'ble Nawab Khwaja Habibullah Bahadur, Minister-in-charge of the Public Health and Local Self-Government Department,

(2) Khan Bahadur M. Abdul Karim,

(3) Khan Bahadur Ataur Rahman,

(4) Mr. Nur Ahmed,

(5) Mr. D. J. Cohen,

(6) Mr. Naresh Nath Mookerji,

(7) Mr. Kamini Kumar Dutta,

(8) Raja Bhupendra Narayan Sinha Bahadur,

(9) Mr. B. C. Dutta,

(10) Mr. E. C. Ormond, and

(11) the mover,

with instructions to submit their report by the 30th June, 1940, and that the presence of four members shall constitute a quorum.

I must confess that I am somewhat surprised that the Hon'ble Minister in charge of the Department is going to move that this Bill should again be circulated for eliciting opinion thereon by the 31st December, 1940. I thought that by now the Hon'ble Minister would be grateful to me for introducing a Bill of this kind. I can quite understand that when this Bill was first introduced, two or three years ago, the Hon'ble Ministers opposed it because they did not know what nomination meant at that time. They probably wanted to keep power in their hands, because they thought that by the judicious use of the power of nomination, they would be able to keep their party together, and that it would help to consolidate their position in the districts. I think by now the Hon'ble Ministers themselves will have realised that nomination is not such a powerful instrument or so beneficial to them as they had at first thought. There has been such an increase in the number of members to the Legislature to-day that nomination has become a positive danger to the Ministry instead of being a help.

Formerly, there were only a few members from each district and generally all the members of the Legislature could be provided with nominated seats. Those members were often grateful to the Cabinet, because it saved them the trouble of going through an arduous election. To-day, the number of seats is very often less than the number of members of the Legislature from a particular district and the Hon'ble Ministers, I think, cannot deny that occasionally there have been great difficulties in dealing with the question of nomination. It has put them in such a peculiar position that they do not know what to do. Although in a particular district board or municipality, an election has taken place and one year or probably 18 months have elapsed, yet the Ministry do not know its own mind. It cannot choose between the different candidates for nomination. Therefore, Sir, a Bill, the primary object of which is to do away with nomination, should have been welcomed by the Ministry.

So far I have been talking from the point of view of the Cabinet. They ought to be grateful for this move to abolish nomination; but from the point of view of the general public, it would be of still greater advantage. The public to-day know that through nomination very often most undesirable persons are put into positions of power which

they could not have otherwise captured. It is on account of the support of the nominated block that certain powers are conferred on incompetent persons and they abuse that power. I think every one will agree, and here again the Hon'ble Ministers cannot deny, that the District Boards and Municipalities are not carrying on their functions as efficiently or as much in the interest of the public as they ought to. One of the main reasons for this is nomination, because through nomination undesirable persons have come in and if they come to power through nomination, their main interest is the continuance of that power rather than doing good to the members of the community whose interests have been placed in their charge.

Besides, Sir, on account of the existence of nomination, many district board chairmen, many chairmen of the municipalities feel that they need not care for public opinion. They are able to defy public opinion, because they know that the Ministers are behind them and through the Hon'ble Ministers nominations will come in their pockets safely. They have defied public opinion and in spite of their abuse of power, in spite of their gross inefficiency, time after time, the same set of men come in power in the local bodies. From the point of view of the public, therefore, it is very necessary to-day that nomination should be abolished.

There are also questions of general principle. I do not propose to go into the details at this stage, for it is accepted on all hands to-day that nomination goes against the very principle of democracy which we want to extend to different spheres of our civic and political life. From that point of view also, nomination should be abolished.

There is a second item in my Bill which I am afraid the members of the Legislature might not like equally. There is a proposal to differentiate the functions between the Local Government and the Provincial Government. It is one of the purposes of my Bill that no Chairman of a district or a municipality shall, as Chairman of the district board or municipality, seek election to either of the Houses of Legislature. The reasons are quite obvious. Very often the machineries of these local bodies are utilised in order to further the electioneering interests of a particular chairman and not to serve the purpose for which these bodies have been made. Nor is this all. There is a more important question and that is that if the functions are divided, we can expect greater efficiency, we can expect greater attention to the details with regard to each particular item. To-day, the same man is a member of the Legislature and the chairman of a district board or of a municipality or of a co-operative bank and God knows of how many other different institutions in the locality. Very often he cannot pay proper attention to any of these and consequently there is a great deal of inefficiency, a great deal of wastage of time, a great deal of wastage of public money as well, because these people hold offices but do not perform the work for which they are meant to be there.

There is also a third item in this Bill to which the Hon'ble Minister cannot in principle object. That is a question of introducing adult male franchise so far as the local bodies are concerned. To-day all over the country we want adult male franchise, even if we cannot introduce adult franchise immediately. If we cannot introduce this system in the provincial Legislature, it is right and proper that a beginning should at least be made in the local bodies.

These are considerations which the Ministry should bear in mind. I would like to say as a warning to the Ministry that if they do not abolish nomination, very likely nomination will finish them. If they do not do away with nomination, nomination will in all probability do away with them.

Mr. PRESIDENT: Motion moved: that the Bengal Local Self-Government (Amendment) Bill, 1937, be referred to a Select Committee consisting of—

(1) The Hon'ble Nawab Khwaja Habibullah Bahadur, Minister-in-charge of the Public Health and Local Self-Government Department,

(2) Khan Bahadur M. Abdul Karim,

(3) Khan Bahadur Ataur Rahman,

(4) Mr. Nur Ahmed,

(5) Mr. D. J. Cohen,

(6) Mr. Naresh Nath Mookerji,

(7) Mr. Kamini Kumar Dutta,

(8) Raja Bhupendra Narayan Sinha Bahadur,

(9) Mr. B. C. Dutta,

(10) Mr. E. C. Ormond, and

(11) the mover,

with instructions to submit their report by the 30th June, 1940, and that the presence of four members shall constitute a quorum.

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: I beg to move that the Bill be re-circulated for the purpose of eliciting opinion thereon by the 31st December, 1940.

In moving this motion for re-circulation, I may say that I do not move it for the reasons which have been given by my learned friend opposite. He has talked a lot in regard to nomination. He said that Government desire nomination to be kept for keeping themselves in power or for gaining the power. I wish to inform him in this connection that this Government have come to power not through the back door but through the open door. Therefore, it is not necessary for the Government to continue the system of nomination in order to keep

them in power. What I wish to explain to my friend, the mover, is that he knows and the House knows that this Department has very lately come into my hand. Since I have taken charge of the office of the Minister of Local Self-Government, I have tried to see that most of these local Self-Government Acts and Village Self-Government Acts are changed, because these Acts were passed years and years ago. For modern times and modern circumstances, it is necessary that there should be a comprehensive change in these Acts. With this end in view, the Government have appointed a Special Officer who is already going into the question, and I am sure honourable members and the House are aware that circulars have been issued as also questionnaire to different local bodies inviting opinions on such questions as nomination, adult franchise and certain other allied matters.

Mr. LALIT CHANDRA DAS: Is there anything about communal electorate?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: That is quite a different matter altogether.

In reply to the circulars and questionnaire issued, Government have been receiving replies which are so varied and so different from one another! Moreover, all the replies have not yet been received. As regards the question of nomination, personallly speaking, my honest opinion is that it should be given up altogether. Though it is my personal opinion, yet all the other sections of the House, especially the minorities, should have their own say. So, it is absolutely essential that Government should get the opinion of all sections of the people and then only they should come to conclusions. As I said, it is not an easy task. It has got hundreds and hundreds of sections. The honourable member cannot expect the Government, I mean the Minister-in-charge, to bring up a comprehensive Bill all at once. But I can assure him that several of these Bills would be coming up before the House in July, and some others may come up in the session after July. I can assure the members and the House that this motion of mine is not meant to have recourse to any dilatory tactics, nor should it be misunderstood that I wish that this Bill should be killed. What I want to say once again is that Government is really sincere and earnest about the matter and is going to bring these amending Bills very soon before the House. With this assurance, Sir, I would request the honourable member to accept my amendment. If not, I shall have to oppose his amendment for reference to a Select Committee and request the House to accept my amendment for recirculation.

Mr. PRESIDENT: Motion moved: That the Bengal Local Self-Government (Amendment) Bill, 1937, be re-circulated for the purpose of eliciting opinion thereon by the 31st December, 1940.

Mr. KADER BAKSH: Sir, in my humble opinion resolutions should be brought forward for the purpose of abolishing the present practice of nominations, —not on the ground which my honourable friend has adduced but on the ground that in this democratic age nominations are an anachronism. I strongly resent the remarks of my honourable friend opposite.

Mr. HUMAYUN KABIR: I withdraw them.

Mr. KADER BAKSH: My honourable friend has suggested that through the back-door of nominations undesirable persons get into local bodies, etc. He may have some personal grudge as regards this system of nomination, but since a clear assurance has been given by the Hon'ble Minister in charge, in the course of which he has dealt with all the points raised by Mr. Kabir, I would only request my friend not to press his motion but to withdraw it.

Mr. PRESIDENT: The question before the House is: that the Bengal Local Self-Government (Amendment) Bill, 1937, be re-circulated for the purpose of eliciting opinion thereon by the 31st December, 1940.

(The motion was agreed to.)

The Bengal Shop Prices Regulation Bill, 1938.

Mr. HUMAYUN KABIR: Mr. President, Sir, I beg to move that the Bengal Shop Prices Regulation Bill, 1938, be referred to a Select Committee consisting of—

(1) The Hon'ble Minister in charge of the Commerce and Labour Department,

(2) Khan Bahadur Ataur Rahman,

(3) Khan Bahadur Shaikh Muhammad Jan,

(4) Khan Bahadur S. Fazal Ellahi,

(5) Mr. Naresh Nath Mookerji,

(6) Mr. H. P. Poddar,

(7) Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,

(8) Rai Sahib Jatindra Mohan Sen,

(9) Mr. D. J. Cohen,

(10) Khan Sahib Abdul Hamid Chowdhury, and

(11) the mover,

with instructions to report by the 30th June, 1940, and that the presence of three members shall constitute a quorum.

Well, Sir, this is a very simple Bill, and the general principle underlying it has already been accepted by Government, because we find that they have already regulated the prices to some extent. I would only mention that if this Bill had been accepted earlier, there would have been no occasion for the promulgation of Ordinances or for adopting any special measures, and the object of Government would have been served in the course of events. I, therefore, move that my motion be accepted by the House.

Mr. PRESIDENT: Motion moved: That the Bengal Shop Prices Regulation Bill, 1938, be referred to a Select Committee consisting of—

(1) The Hon'ble Minister in charge of the Commerce and Labour Department,

(2) Khan Bahadur Ataur Rahman,

(3) Khan Bahadur Shaikh Muhammad Jan,

(4) Khan Bahadur S. Fazal Ellahi,

(5) Mr. Naresh Nath Mookerji,

(6) Mr. H. P. Poddar,

(7) Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,

(8) Rai Sahib Jatindra Mohan Sen,

(9) Mr. D. J. Cohen,

(10) Khan Sahib Abdul Hamid Chowdhury, and

(11) the mover,

with instructions to report by the 30th June, 1940, and that the presence of three members shall constitute a quorum.

Mr. PRESIDENT: The question before the House is that the Bengal Shop Prices Regulation Bill, 1938, be referred to a Select Committet consisting of—

(1) The Hon'ble Minister in charge of the Commerce and Labour Department,

(2) Khan Bahadur Ataur Rahman,

(3) Khan Bahadur Shaikh Muhammad Jan,

(4) Khan Bahadur S. Fazal Ellahi,

(5) Mr. Naresh Nath Mookerji,

(6) Mr. H. P. Poddar,

(7) Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,

(8) Rai Sahib Jatindra Mohan Sen,

(9) Mr. D. J. Cohen,

(10) Khan Sahib Abdul Hamid Chowdhury, and

(11) the mover,

with instructions to report by the 30th June, 1940, and that the presence of three members shall constitute a quorum.

(The motion was negatived.)

The Calcutta Improvement (Amendment) Bill, 1940.

Mr. KADER BAKSH: Mr. President, Sir, I pray that leave be granted to me to introduce the Calcutta Improvement (Amendment) Bill, 1940.

Sir, my object in bringing a Bill of this nature is to protect those who actually live in Bengal and on the soil of Bengal and who are the sons of Bengal, for they are not given any facilities to purchase sites for residential purposes. Sir, the demand for such sites is very great. Those people who have big bank balances are purchasing all these sites for speculative purposes and for selling the same at a higher bid, I mean at a higher price. Sir, since yesterday I had been out for selecting a piece of land for the purpose of a house being built thereon for one of my friends. We thought that we could purchase one at a cost of 1,200 or 1,300 rupees but the demand, the exorbitant demand, was no less than Rs. 3,000 per *cottah*. Such speculation on the part of the rich to buy at a lower rate and to sell the same at a very high rate stands in the way of the middle-class people, who are the real inhabitants of Bengal, purchasing sites for residential purposes. Now, Sir, it is with a view to put an end to, or at least to restrict, the unlimited hankering after and desire on the part of some selfish people, that the introduction of a bill of this sort is sought. On this ground, Sir, I beg leave of the House to introduce this Bill.

Mr. PRESIDENT: Is it the pleasure of the House to permit Mr. Kader Baksh to introduce the Calcutta Improvement (Amendment) Bill, 1940?

Mr. PRESIDENT: Leave is granted by the House to Mr. Kader Baksh to introduce the Calcutta Improvement (Amendment) Bill, 1940.

(The Secretary then read the short title of the Bill.)

The Bengal Municipal (Amendment) Bill, 1939.

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg leave of the House to introduce the Bengal Municipal (Amendment) Bill, 1939. As there is little time to make a speech, I simply move it.

Mr. PRESIDENT: Leave has been asked by Rai Surendra Narayan Sinha Bahadur to introduce the Bengal Municipal (Amendment) Bill, 1939. Is it the pleasure of the House to grant him such leave?

Mr. PRESIDENT: Leave has been granted by the House to Rai Surendra Narayan Sinha Bahadur to introduce the Bengal Municipal (Amendment) Bill, 1939.

(The Secretary then read the short title of the Bill.)

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that the Bengal Municipal (Amendment) Bill, 1939, be referred to a Select Committee——

Mr. PRESIDENT: What is the number of this motion?

Rai SURENDRA NARAYAN SINHA Bahadur: It is No. XXIX, Sir.

Mr. PRESIDENT: I see you want to have this motion of reference to a Select Committee discussed now. It is the convention of this House not to allow two motions on the same Bill on the same day. I am afraid, you cannot move it now.

Order, order. The Council stands adjourned till 2-15 p.m. on Monday, the 26th February.

Adjournment.

The Council then adjourned till 2-15 p.m. on Monday, the 26th February, 1940.

Members Absent:

The following members were absent from the meeting held on the 23rd February, 1940:—

(1) Khan Bahadur Naziruddin Ahmad.
(2) Mr. Nur Ahmed.
(3) Rai Bahadur Keshab Chandra Banerji.
(4) Rai Bahadur Manmatha Nath Bose.
(5) Mr. Humayun Reza Chowdhury.
(6) Mr. Bankim Chandra Datta.
(7) Mr. Narendra Chandra Datta.
(8) Khan Bahadur S. Fazal Ellahi.
(9) Khan Bahadur Saiyed Muazzamuddin Hosain.
(10) Mr. Mohamed Hossain.
(11) Khan Bahadur Syed Muhammad Ghaziul Huq.
(12) Khan Bahadur Maulvi Muhammad Ibrahim.
(13) Maulana Muhammad Akram Khan.
(14) Mr. W. B. G. Laidlaw.
(15) Mr. H. G. G. Mackay.
(16) Mr. J. B. Ross.
(17) Mr. Sachindra Narayan Sanyal.
(18) Rai Sahib Indu Bhusan Sarker.

B. G. Press—1939-40—13547A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES.

THE COUNCIL met in the Legislative Chamber of the Legislative Buildings, Calcutta, on Monday, the 26th February, 1940, at 2-15 p.m. being the fifth day of the First Session, pursuant to section 62 (2) (*a*) of the Government of India Act, 1935.

Present:

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Progress of Moslem education.

20. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN (on behalf of Mr. Nur Ahmed): (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state if it is a fact that while on the 21st March, 1932, there was an increase of 297,835 Moslem pupils in Bengal, on the same date in 1937 the increase was only 218,420? Is it a fact that the Hindu and Christian pupils showed comparatively greater increase during the same period?

(*b*) Will the Hon'ble Minister be pleased to state if he has made any enquiry into the cause of this sudden set-back in the progress of Moslem education?

(*c*) Will the Hon'ble Minister be pleased to state what steps he has taken or intends to take to accelerate the pace of Moslem education in Bengal?

(*d*) What is the number of scholarships and stipends that are granted by the Government in Bengal? Of these, how many are exclusively for Moslem students?

(*e*) How many new scholarships and stipends have been created for Moslems by the Government for encouragement of Moslem education in Bengal?

(*f*) Has the Government of Bengal given effect to the recommendations of the Moslem Education Advisory Committee regarding scholarships and stipends? If not, why not? When is the Government's resolution on the Report of the Moslem Education Advisory Committee expected to be published? Why has it not been published so long?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): Steps have been taken to collect the information which, I regret to say, is not yet ready.

High cost of education.

21. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN (on behalf of Mr. Nur Ahmed): (*a*) Is the Hon'ble Minister in charge of the Education Department aware that the high cost of education has been causing hardship to the poor and middle-class people of Bengal?

(*b*) Will the Hon'ble Minister be pleased to state what measure he has taken or intends to take to reduce the cost of education in Bengal and to increase the percentage of expenditure on education from Government and Local Self-Governing sources?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): Steps have been taken to collect the information which is not ready.

Moslem education.

22. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN (on behalf of Mr. Nur Ahmed): (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state what steps he has taken or intends to take to accelerate the pace of the education of Moslem students for the learned professions?

(*b*) Is it a fact that there is no hostel for Moslem girls in any *mufassil* town of Bengal? If so, will the Hon'ble Minister be pleased to state if he intends to make satisfactory arrangements for the accommodation of Moslem girls in big towns, such as Dacca and Chittagong? If not, why not?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): Steps have been taken to collect the information which, I regret to say, is not yet ready.

Needs of Moslems in educational matters.

23. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN (on behalf of Mr. Nur Ahmed): (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state if his attention has been drawn to various resolutions passed during the All-India Moslem Educational Conference held in Calcutta during last Christmas holidays regarding various needs of Moslems in matters educational?

(*b*) If so, what are those resolutions, and how far does the Government intend to give effect to them or to any of them? If not, why not?

(*c*) Is it a fact that a resolution recommending establishment of two Senior Madrassahs for girls—one at Chittagong and one at Dacca—was adopted in that Conference? If so, what steps has the Government taken or intends to take to establish a senior Madrassah for girls at Chittagong?

(*d*) Will the Hon'ble Minister be pleased to state how many madrassahs have been started in Bengal for the education of girls, up to this time, and of these, how many are junior madrassahs and how many are senior madrassahs and how much does the Government spend a year for their maintenance?

(*e*) Will the Hon'ble Minister be pleased to state what is the total number of vernacular training schools for Moslem girls in Bengal and how many girls were trained in these institutions in the years from 1930 to 1939?

(*f*) Is it a fact that the Government has decided to start a vernacular training school for girls at Chittagong? If so, when will the school actually be started at Chittagong?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): Steps have been taken to collect the information which, I regret to say, is not yet ready.

Secondary education for girls.

24. Khan Bahadur REZZAQUL HAIDER CHOWDHURY: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state what is the total annual expenditure under the head "Secondary education for girls" in Bengal, district by district?

(*b*) Are there Government girls' high English schools in all the districts in Bengal?

(*c*) Does the Government contemplate to have a Government girls' high English school at Noakhali immediately?

(*d*) Is the Government aware that a non-Government girls' high English school, named Uma Girls' High English School, had been started at Noakhali town in 1934 with the aid of private charities and contributions by the local bodies?

(*e*) Has the Government contributed any amount for the improvement and upkeep of the said school? If so, how much and for what purpose?

(*f*) Is it a fact that the financial condition of the school is not sound and that a representation has been made to the Government for enhancement of the monthly grant?

(*g*) If so, what action has been taken on the same by the Government and what is the decision of the Government, if any?

(*h*) Will the Hon'ble Minister be pleased to state what is the average monthly income and expenditure of the present Government middle English school at Noakhali?

(*i*) Has a representation been submitted to the Government from Noakhali for immediate establishment of a full-fledged Government girls' high English school at Noakhali, amalgamating the Government Girls' Middle English School with the Uma Girls' High English School? If so, what action has hitherto been taken in that direction?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): Steps have been taken to collect the information which, I regret to say, is not yet ready.

Mr. HUMAYUN KABIR: Sir, are we to understand that this is the only stereotyped reply which the Ministry has go to give to any question that we might put?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No, Sir. They are all ad interim replies, as the honourable member may well realize.

Headquarters of Noakhali.

25. Mr. LALIT CHANDRA DAS: (*a*) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state whether it is a fact that in reply to a question regarding the location of the headquarters of the Noakhali district, the Hon'ble Minister promised to order the shifting of the present town to a suitable site after inspecting in January the different sites suggested to the Government?

(*b*) Did the Hon'ble Minister go to the locality to see the different sites? If so, what is now the decision of the Government as to the site where the headquarters of the Noakhali district will be located and when will it be removed there?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) No.

(*b*) Does not arise.

Mr. LALIT CHANDRA DAS: Was there no question asked in the Lower House about the Headquarters of Noakhali by Mr. Harendra Kumar Sur?

Mr. PRESIDENT: Order, Order. No reference is to be made to what happened in the Lower House.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether he visited Noakhali for the purpose of selecting a site for the location of the Headquarters of Noakhali?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No, Sir, I regret to say that it has not yet been possible for me to visit Noakhali for the purpose of selection of a site, though I intended to do so. I hope to do so very soon.

Relief to the people of flood-affected areas of Cox's Bazar.

26. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN (on behalf of Mr. Nur Ahmed): (*a*) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state if a deputation consisting of Mr. Chang Thaung Chowdhury and others waited upon the Collector of Chittagong at Cox's Bazar in December, 1939, and placed before the Collector their prayer for remission of rent and suspension of education cess on the ground of utter devastation caused in Cox's Bazar by the floods of last August?

(*b*) If so, has the Government taken any steps up to this time with a view to giving necessary relief to the flood-affected areas of Cox's Bazar and other parts of Chittagong? If so, what are they? If not, why not?

(*c*) Will the Hon'ble Minister be pleased to state what relief he has granted up to this date to the flood-affected areas of Chittagong? Will he be pleased to give a detailed account of the same?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: A reference has been made to the local officers and the information wanted by the hon'ble member will be furnished in due course.

Preparation of the electoral roll of the Calcutta Corporation.

27. Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur (on behalf of Rai Bahadur Surendra Narayan Sinha): (*a*) Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state if it is a fact that in the preparation of the electoral roll for the Anglo-Indian Constituency of the Calcutta Corporation, persons who were already on the roll of the Bengal Legislative Assembly were placed in the General Constituency as Europeans without sufficient proof of domicile?

(*b*) Is it a fact that the Government has received complaints from, amongst others, the Anglo-Indian representatives' associations that the circular of the Government of Bengal defining "Anglo-Indians" and "Europeans" was not properly given effect to in the compilation of the electoral rolls for the ensuing general elections of the Corporation of Calcutta?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): (*a*) No. The names of the persons who were able to adduce satisfactory evidence before the Registering Authority in support of their claims to be enrolled as voters of the Anglo-Indian Constituency of the Calcutta Corporation in consonance with the definition of the term "Anglo-Indian" in the Calcutta Municipal (Amendment) Act, 1939, were entered as such.

The reports received from the firms in which the persons concerned were employed were also taken into consideration in the preparation of the electoral roll of this Constituency.

(*b*) No.

High rate charged per unit of electricity in mufassal towns.

28. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN (on behalf of Mr. Nur Ahmed): (*a*) Will the Hon'ble Minister in charge of the Commerce and Labour Department be pleased to state if he is aware that the high rate charged per unit of the consumption of electricity in the *mufassil* towns of Bengal is causing hardship to the consumers of electrical energy and is retarding the progress of local industries?

(*b*) Is it a fact that in Bihar and other provinces of India, expert Committees were set up to enquire into this matter and that the rate per unit of electrical energy has been reduced in accordance with the recommendations of these Committees?

(*c*) Does the Government of Bengal intend to set up such a Committee to go into the question of the high rates charged in *mufassil* towns of Bengal for consumption of electricity? If not, why not?

MINISTER in charge of the COMMERCE and LABOUR DEPARTMENT (the Hon'ble Mr. H. S. Suhrawardy): (*a*) A few complaints have been received so far and in each case of genuine hardship effort has been made to reduce the rates.

(*b*) I have no official information.

(*c*) The matter is under consideration.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: With reference to answer (*b*), will the Hon'ble Minister kindly ask for official information from the local officers?

The Hon'ble Mr. H. S. SUHRAWARDY: I suppose the honourable member means that I should secure the information from Bihar and the other provinces of India. I shall certainly do it, Sir, but the line on which I propose taking up the matter will materially differ from the line which has been taken by them.

Damage to crops caused by wild elephants in certain parts of Noakhali.

29. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN (on behalf of Mr. Nur Ahmed): Is the Hon'ble Minister in charge of the Forest and Excise Department aware that wild elephants from the neighbouring forests cause considerable damage to the crops sown by the villagers of the Banskhali thana of Chittagong, and also kill human beings living within the jurisdiction of the said thana? If so, what steps have been taken by the Government to prevent this recurring loss of life and property by wild elephants?

MINISTER in charge of FOREST and EXCISE DEPARTMENT (the Hon'ble Mr. Prasanna Deb Raikut): Government have no information.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Has no information been called for from the local authorities, I mean from the Collector of the district?

The Hon'ble Mr. PRASANNA DEB RAIKUT: Sir, this much I can inform the honourable member that two *shikaris* have been appointed and one tracker engaged to kill the elephants.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Then, am I to take it that there has been loss of life of human lives?

The Hon'ble Mr. PRASANNA DEB RAIKUT: No, Sir. There has been no loss of life.

Mr. RANAJIT PAL CHOUDHURY: Then, what is the object of Government in appointing two Shikaris to kill the elephants?

The Hon'ble Mr. H. S. SUHRAWARDY: These elephants cause damage to crops.

The Hon'ble Mr. PRASANNA DEB RAIKUT: It is just to kill the wild elephants so that they may not destroy paddy and other crops.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Did the Hon'ble Minister get the department concerned to enquire and report on the facts?

The Hon'ble Mr. PRASANNA DEB RAIKUT: If the honourable member puts a specific question, I will be prepared to ask for and obtain the information and answer his question.

Operations of Forest Laws and Rules.

30. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN (on behalf of Mr. Nur Ahmed): (*a*) Will the Hon'ble Minister in charge of the Forest and Excise Department be pleased to state in detail the measures adopted by the Government of Bengal to give relief to the villagers living near the Reserve forests in respect of their grievances regarding the operation of Forest Laws and Rules and also of *raiyatees* and licence fees payable by them?

(*b*) Is it a fact that the Hon'ble Chief Minister during his last visit in January, 1939, assured the people of Chittagong that he would remove their main grievances regarding the Chittagong forest administration? If so, what steps have been taken by Government up to this time to implement the Chief Minister's assurances? If so, what are they?

The Hon'ble Mr. PRASANNA DEB RAIKUT: I regret that the information which requires reference to the local officers cannot be supplied within the prescribed period.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Has the information been at all called for from the local officers and will it be supplied in due course?

The Hon'ble Mr. PRASANNA DEB RAIKUT: Yes, Sir.

Excise shops.

31. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN (on behalf of Khan Bahadur Ataur Rahman): Will the Hon'ble Minister in charge of the Forest and Excise Department be pleased to state—

(*a*) how many excise shops in each district of Bengal and in Calcutta have been let out to new vendors during the financial year 1939-40;

(b) how many of the new vendors are Hindus and how many are Moslems; and

(c) what is the average annual income of each of the shop so let out in the year 1939-40?

The Hon'ble Mr. PRASANNA DEB RAIKUT: I regret that it has not been possible to collect the necessary information within the time allowed.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister kindly collect the information and place it before the House in due course?

The Hon'ble Mr. PRASANNA DEB RAIKUT: Yes, Sir.

Mr. PRESIDENT: I think an explanation should be added to such interim answers.

The Bengal Tenancy (Third Amendment) Bill, 1939.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, on the 22nd of this month, I gave notice of a motion to move for the consideration and passing by this House of the Bengal Tenancy (Third Amendment) Bill, 1939, which had been passed by the Bengal Legislative Assembly. There was no mention of the date on which the motion would be moved. I understand that the date has been fixed for the 29th instant. So, Sir, may I now move the motion formally with the date inserted therein?

Mr. PRESIDENT: I take it that you propose to move the motion on the 29th.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I have the honour to give notice that in the current session of the Bengal Legislative Council and on the 29th instant I shall move that the Bengal Tenancy (Third Amendment) Bill, 1939, as passed by the Bengal Legislative Assembly, be taken into consideration and passed, as settled in the Council.

Mr. PRESIDENT: Any member desiring to give notice of amendments either for circulation of the Bill or for reference of the same to a Select Committee will please do so by 3 p.m. to-morrow. The Bill will be taken up for consideration, clause by clause, on the 11th March, 1940.

The House will now resume further discussion on the Budget. Members desiring to take part in the discussion to-day will please rise in their places, so that I can ascertain the number of members that are likely to speak to-day, taking into consideration the amount of time at my disposal.

(Some members stood in their places.)

Khan Bahadur M. ABDUL KARIM: Mr. President, Sir, will the Budget discussion continue to-morrow?

Mr. PRESIDENT: Yes.

Khan Bahadur M. ABDUL KARIM: Then, I shall take part in to-morrow's discussion.

Mr. BANKIM CHANDRA DATTA: I shall also take part in the discussion to-morrow, Sir.

Mr. PRESIDENT: Under the Governor's Rules, the Chair has the right to fix the maximum time. Accordingly, I allot 20 minutes for each speaker to-day. The Finance Minister will get about an hour to-morrow to reply to the points raised by the speakers.

Mr. Humayun Kabir was in possession of the House on the last day when there was Budget discussion, and he will now continue his speech.

General Discussion on Budget.

Mr. HUMAYUN KABIR: Mr. President, Sir, when I was speaking on the Budget at the last meeting, the point at which I left was the consideration whether there was any emergency in Bengal so far as the financial position of this province was concerned. I was suggesting to the Hon'ble Finance Minister that, far from this being the case, we are not suffering from any financial stringency at all in Bengal to-day. Exactly the reverse is the case. I was also suggesting to the Hon'ble Finance Minister that the prices of all raw materials have gone up and it is most likely that these prices will continue to remain high. There has been an almost unprecedented impetus given to the development of the industries in this province, as in the rest of India. I do not know if all members of this House know that at present one of the largest, if not the largest, blast furnaces in the world has been built in Tatanagar. I do not know if honourable members of this House know that we are going to have in Kanchrapara, one of the biggest locomotive manufacturing concerns, probably the biggest in the whole of the East. Sir, these are merely two indications of the way in which

the growth of big industries in this province is going to be accelerated as a result of the present war conditions in Europe. Again, Sir, I do not know if honourable members of this House know that there has been an almost unprecedented growth in the development of the armaments industry in this province. A very large number of munition factories have been started. Of course, there was in existence a factory in Bengal from before. Its progress has been accelerated and new ones have been started, and it is almost inevitable that, with the passage of time, still more factories will be started. In fact, if war conditions continue for any length of time, and from a consideration of the situation it seems incredible that the war would stop at least before a couple of years, it is almost certain that India will find herself in a very advantageous position at the end of the war so far at any rate as the heavy industries are concerned. I would like honourable members of this House to remember that out of the last Great War, the United States of America and Japan emerged as the two greatest industrial countries of the world. Before that time, it was British capital which dominated the whole world and it was British industry which held the pride of places. As a result of the last Great War, all the British industrial resources, and the total British productive capacity were diverted to the production of armaments only with a view to winning the war. As a result of this, Japan and the United States of America forged ahead and built up the position which they enjoy to-day. It is almost certain that, as a result of the present war, which as I have suggested a moment ago, does not show any chance of ending soon considering the belligerents on either side, it is almost inevitable that India will find herself in the same position so far as industry and finance are concerned. Therefore, Sir, I think that the Hon'ble Minister in his prognostication, in his pessimistic estimate of the financial prospect of the province, is not justified and I would add that we do not expect this sort of pessimistic outlook from him, for we have been accustomed to associate with him a great deal of optimism and a great deal of daring. In such circumstances, I think the Finance Minister can very rightly take up a more enterprising attitude than has actually been done.

Again, I would like to draw the attention of the Hon'ble Finance Minister to certain lines by proceeding along which the position of the Bengal Government can be improved. It is about two years ago that in discussing the Budget in this House, I suggested that if Government are looking about for money for nation-building departments, i.e., for primary education, etc., there is a sort of a tax which can be imposed without any undue hardship on the agriculturists, without any undue hardship on the middle-class people, and which can be paid out of the profits of capital. I refer to the Jute Processing Duty, on the lines of the cotton processing duty which is levied on cotton production in America. Jute manufacturers in Bengal have certain advantages.

They do not have to pay the freight cost and other incidental charges which the mills in other countries have to do. Here there is a possibility of tapping a source of revenue which will give a large income to the Government of Bengal without causing undue hardship to the agriculturists and to the middle classes.

Again, Sir, there were also questions to which I drew the attention of the Hon'ble Finance Minister who was then holding the portfolio of Labour and Commerce. It is a fact that, Sir, in Bengal to-day we have certain advantages so far as the cotton industry, the textile industry and the heavy chemical industry are concerned. In all these industries, Bengal has natural advantages and in spite of that, developments along these lines have not gone as far as they ought to have done. The present is the time, I think, Sir, when, if Government had any initiative, or at least if Government started giving patronage, there might have been far greater development along these lines.

I am constrained to make one or two remarks with regard to what my honourable friend Mr. Ross has said relating to the position of coal mines in Bengal. It is a well-known fact that there is such a colossal wastage of the resources of the province with respect to coal at the present moment on account of uneconomic mining that it is a standing scandel. Speaking from memory, I believe that the average loss to the province per day is in the neighbourhood of about Rs. 15 lakhs. That is the average loss to the province on account of the uneconomic and unscientific way in which the coal wealth of the province is being exploited. In fact, Sir, even those who are casual observers, those who travel along the mines, have noticed the way in which even the small coal mines are coming into operation ever since the war began. There is no proper plan for the use of the coal resources of the province. There is no attempt to carbonizing the coal and using it in a scientific manner by conserving the resources and distributing the energy from the pit-heads themselves. The old 19th century methods are being followed in the province with an eye to immediate profit, but without any regard whatsoever to the ultimate benefit of the province. This has become a scandal. Here again, I think, Government have a duty and also a field which they can tap with profit.

These are some of the suggestions with regard to the sources which the Government may very profitably tap in order to contribute to the nation-building departments of the province. But, Sir, before that, we have to be convinced of one fact, namely, that the money so derived will be utilised for the nation-building departments. That is a point on which we on this side of the House and I think from the speeches which we have heard from the other side of the House, they also do not feel quite confident. We have on many occasions seen money appropriated for nation-building departments. In 1938-39, large sums of money were given for malaria-control or for public health and for other utility

concerns but that money was not utilised. This point has been made by more than one speaker and I do not like to dilate upon that. That this large sum of money which has been appropriated for a particular department, has not been utilised does not reflect credit upon the Ministry, upon the planning power of the Ministry and their executive capacity to carry through such plan. This point, I hope, the Hon'ble Finance Minister in particular and the Cabinet as a whole will remember when they make their plans for the current year. It was possible for the former Finance Minister to say and in fact he has already said that the Finance Minister could not control the expenditure. It was for him only to plan the budget and this planning was the result of the suggestions which be received from his colleagues. I think the present Finance Minister cannot offer even that plea. I think it is no exaggeration to say that the present Finance Minister is almost half the Cabinet. The number of portfolios he is carrying on is probably more than any Hon'ble Minister can possibly be burdened with. In any case, since he has taken charge of so many portfolios, it does not lie with him to say that the money could not be spent on account of failure of any individual Minister concerned.

Again, Sir, there are certain other items in the present Budget to which I feel that one must draw the attention of this House. The Finance Minister has complained that there is a general stringency so far as the financial position of the province is concerned, but at the same time he provides for expenditure on certain items which could very well wait—I may first mention the expenditure on Civil Works, but I do not want to offer any comment on them at this stage. It may be that some of the civil works are urgently necessary, but there are others which might very well wait. I would draw attention to two or three cases of unprofitable expenditure. First of all, there is reference to the money to be spent for air raid precautions. I do not know what is the bogey against which the present Cabinet of Bengal seek to set up air raid precautions. Who is going to raid India? Who is going to raid Bengal? Where are the centres? Anybody who has the least idea of geography of the world and the position which Bengal occupies in the map of the world will be readily convinced that there is not the slightest chance of any attack from the air so far as Bengal is concerned. Any apprehensions on this score would be far-fetched. Anti air-aid arrangements might have been made in the Frontier or the Punjab, but so far as Bengal is concerned, I think the money which has been appropriated for air raid precautions is entirely wasted, and particularly when there is that financial stringency to which the Hon'ble Minister refers.

Then again, Sir, there is a large grant to the Bratachari. I do not understand, Sir, why Rs. 50,000 should be given to Bratachari movement when there are so many other movements which are in need of

money. I think a lot of discussion has taken place in another place with regard to the money which was withheld from the Viswabharati; and yet in this year's budget money has been provided for Bratachari movement. I must confess that I am not an unqualified admirer of Bratachari. There are certain aspects in which the Bratachari movement has done very good work. But there are other aspects in Bratachari which cannot command the interest or enthusiasm of many members of this House. In any case, though there are good things in Bratachari, there are still better things which are also in crying need of funds. Are we to understand that the grant of Rs. 50,000 to Bratachari is a question which is more important than an additional Rs. 50,000 to primary education or to secondary education or even to the provision of scholarship for students in schools and colleges? I think, therefore, that this grant of Rs. 50,000 to the Bratachari, even if it were justified at some other times, cannot be justified by any means at the present juncture, when the Finance Minister himself complains that there is a financial stringency in the province.

I would like to draw the attention of the Hon'ble Minister to the revival of Settlement operations in two districts. I think it was only last year or the year before that Revisional operations were suspended in more than one district in Bengal and the idea of renewing this Settlement for the time being was dropped. We are told that last year and the year before we had financially prosperous years. If at the time of prosperity the proposal for Revisional Settlement was dropped on account of money which could not be expended in carrying them through, what justification is there for reviving it to-day when there is financial stringency, according to the report of the Finance Minister himself?

Again, there is the question of Brabourne College for which Rs. 12 lakhs of good money will be wasted. I have never concealed my attitude with regard to this, Sir. There is a great demand for expansion of women's education in the province, but this is not the right way of proceeding about that.

With regard to another institution, where also a large sum of money has already been wasted, I mean the Islamia College, I think there has been a definite injustice to the Moslem community in the name of Muslim education in Bengal. A very large building has been constructed and a lot of money has been sunk in it, but the results have been deplorable. If instead of this, the total value of that money had been capitalized and even if the total expenditure which has been incurred on the Islamia College or the Brabourne College had been given as scholarships to deserving Muhammadan students—boys and girls,—that would have advanced the cause of education in Bengal far more than the construction of some edifices like these. I think, Sir, the Ministry should consider seriously whether the money is not

being wasted by building palatial edifices of this type, particularly at a time when there is great need for primary and secondary education. I would put it to the Cabinet if it is not far better to make primary education and secondary education free than to waste a huge sum of money by building huge edifices for the Islamia College and the Brabourne College or for any other college of that type.

I think the Hon'ble Finance Minister cannot deny that the total fee fund received from secondary schools in Bengal is Rs. 5 lakhs. If this Rs. 5 lakhs be given up by Government it does not very much matter. By giving up this Rs. 5 lakhs, education in the secondary stage all over Bengal can be made free. I think it is the first duty of any democratic Government of the world to make education in the primary and secondary stages free, even if they cannot make it free in the University stage. I would say that it is possible to make education free at all stages. We are working towards social reorganisation in which education would be free at all stages. If we cannot make it free at all stages immediately, there is no reason why money should not be found for making it free so far as secondary and primary stages are concerned. Primary and secondary education ought to be free. If instead of spending Rs 12 lakhs on the Brabourne College (and I think that the annual expenditure on it will not be less than Rs. 1½ lakhs every year), if this money had been capitalised, secondary education could be made free for the whole of Bengal. That will be a very long step forward and would help in advancing the educational interest of the province and particularly of Mussalmans and the Scheduled Castes who are backward.

Again, Sir, there is one other feature to which I wish to draw the attention of the House in passing, namely, undue preponderance of the grant which has been made to two districts which have been singled out, viz., the districts of Barisal and Dacca. We can understand why Barisal and Dacca should be favoured in this way, but at the same time, I think, it is up to the members of this House, who represent not any particular district but Bengal as a whole to see that there is no injustice between district and district. This is a matter on which I will not dilate. As it is, we have sufficient jealousies in our province—communal, linguistic and otherwise—and I do not want that district jealousies should be added to them. We should not encourage the growth of district or regional jealousies within the province.

Then, there is the question of jute. I wish I could agree with the Finance Minister with regard to what he has said in his speech about taking pride for the increased price of jute, so far as the agriculturists are concerned. If the Finance Minister could really take pride for it, I would have been the first to congratulate him from this side of the House. The members of the House would have united in raising a

golden statue to the memory of the Hon'ble Mr. H. S. Suhrawardy for raising the price of jute, so far as the agriculturists are concerned. But unfortunately, we find that this is not the case.

Sir, exactly the reverse is the case. The way in which the Ministry is playing with Ordinances has gone against the fundamental interests of the agriculturists. Why is it that Ordinances are promulgated immediately after the Legislature has been prorogued? Why is it that an Ordinance was again promulgated just before the Legislature was going to be summoned? Why is that instead of coming before the Houses of the Legislature with a prepared plan, with a definite scheme for improving the price of jute, the Ministry is playing and tinkering with one of the most fundamental and vital matters affecting the economic life of the province as a whole, by promulgating the Jute Ordinance just before the commencement of this session of the Legislature? Now, Sir——

Mr. PRESIDENT: Your time is up.

Mr. HUMAYUN KABIR: May I just have five minutes more, Sir, to finish my speech?

Mr. PRESIDENT: I can allow you two minutes' time.

Mr. HUMAYUN KABIR: Thank you, Sir.

Honourable members may remember that last year the Jute Ordinance was promulgated at a time when more than three quarters of jute had left the hands of the agriculturists, and if there was anyone who profited by the Ordinance, it was the middleman. The Ordinances of the Ministry have been generally promulgated with a view to safeguarding the interests of the jute mills and the capitalists and also of those who speculate on the jute Futures market. Such action on the part of the Ministry takes away, whatever claim the Hon'ble Mr. Suhrawardy could otherwise have to the gratitude of the agriculturists. This is a point on which I should like to dilate, but since my time is up I have mentioned it in brief and shall now pass on to the next point.

I should like to close my remarks on a more pleasant note and I would like to congratulate the Ministry on two items of the Budget where, I may say, there is definitely good work shown on the part of the Ministry. The first is with regard to the department with which the Hon'ble Mr. Suhrawardy himself is concerned, viz., the question of price control. Here, the work of the Ministry has really been good. The promptness with which he took measures just after the war was declared, deserves the commendation of the members of the different sections of the House, and I think he will have it in plenty.

The other point to which I want to refer to is the larger provision for public health, viz., 7½ lakhs for rural water-supply, 5 lakhs for quinine, 2½ lakhs for anti-malaria and 1½ lakhs for Kala-azar. These are very promising no doubt, but I would like to ask the Ministry in all seriousness: "Are these only paper provisions or are they really going to be used?" Sir, two years ago we had Rs. 2,20,000 provided for anti-malaria work but out of that only Rs. 67,000 was spent and over a lakh and a half remained unspent. Does this mean that malaria has departed from Bengal? That cannot be, because there is a handsome sum provided for it again. I hope that the Ministry is serious about the public health of this province now, and will carry out the schemes for which they have made increased provision in the next year's Budget, and would be able to tell us when they come before the Council next year, that "by spending more, the public health of Bengal is in a better condition now than it was before".

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Mr. President, Sir, we must express our deepest thanks to the Hon'ble Finance Minister for the hard labour he had to put in in compiling the Budget for the next year. It is known to the House—and no one can deny it—that to prepare a Budget for the whole of the province is no easy task and it requires brain, labour and at the same time a grasp of the whole situation. The Hon'ble Mr. Suhrawardy has been in office for only a few months and we must give him the credit that during this short period he has been able to grasp the situation and present this Budget in this House. Not only that. He has, in addition to his portfolio of Finance, other Departments also. Sir, in the course of the last 20 or 25 years, I have never found that the Finance Minister had been able to take charge of other portfolios, because "Finance" is in itself a heavy enough work. That in spite of other additional duties he was able to present this Budget reflects not a little credit on him, and I must express my deepest thanks to him on behalf of my party.

Now, coming to the details of the Budget, Sir, I am sorry to say that the Budget which the Hon'ble Finance Minister has presented to this House is not only disappointing but also distressing to the people of this Presidency. I wish I could call this Budget colourless—but I am sorry to say that it is discoloured. Sir, under the New Dispensation, the Government of Bengal started with favourable conditions. Relieved from the crushing burden of loans to the Central Government and blessed with a new source of income for which the Government and the people had been pressing their demand ever since the imposition of what is popularly known as the Meston Award, they ought to have started on a career of real usefulness. In addition, the Government are getting half of the jute duty. But still they had made what may be called a rake's progress. They have spent every pice of the

ample resources placed at their disposal and saddled the people with new taxes. And this they have been constrained to do not for the purpose of accomplishing some comprehensive schemes for the amelioration of the condition of the people—by effecting spread of education, sanitation, irrigation, agriculture or the industries—but for the purpose of simply carrying on—and that not very laudably—the day-to-day administration of the Presidency! The more they have got, the more have they been wanting, their appetite being whetted by what they have been feeding upon.

Though the Finance Minister has expressed some lip sympathy for the masses, he has done nothing to ameliorate their lot. He has made a passing reference to their hard lot—"all those in fact who know and deplore the conditions in which the ill-educated, ill-housed, ill-fed and malaria-stricken sons of Bengal live". And he has presented a Budget which, according to his own confession, "must be a great disappointment".

Repeated deficit Budgets in normal years are a confession of hopeless failure and must be condemned. I purposely call the years normal. There has been no devastating famine in Bengal during all these years. Many of us remember how in 1933 the then Governor of the Presidency referred to a new source of expenditure. "The expenditure", he said, "incurred with the authority of this House in combating various subversive movements amounts to no less than 112¼ lakhs in three years". That sterile expenditure has now been eliminated. And yet the Government finds itself in a morass of want.

The war in the West has been made a peg to hang the causes of this failure to balance the Budget. But even now we only see "through the loopholes of retreat"—"rampant war, yoking the red dragons of her iron car." The war—undesirable though it is—has proved a corrective to the economic depression,—the effects of which we had been feeling in Bengal,—by increasing the price of jute which is the chief money crop of the people. The Hon'ble Finance Member has warned us that with the end of the war will come another depression and the world must be prepared for it. It is, therefore, doubly necessary to put by something for that rainy day—by seizing the opportunity the war has brought in its train. Reading the Budget from cover to cover, one finds no attempt to utilise that opportunity, though "there is a tide in the affairs of men" which has to be taken at the flood if it is to lead on to fortune.

I cannot help referring to one strange fact that emerges from the statement made by the Finance Minister. "Savings to the extent of ten lakhs occur under the head "Medical and Public Health owing to the time required for working out details of some large projects for which lump provisions were included in the Budget. The Irrigation

Budget shows a saving of nearly four lakhs owing mainly to non-utilisation of the provision for the Waterways Board." In a Presidency which cries aloud for medical relief and provision for the improvement of public health and which is sadly neglected in the matter of irrigation, should not the Ministers feel for having failed to utilise the money provided for in the Budget for these purposes?

The worst feature of the Budget is the threat held out repeatedly to impose fresh taxes. The Finance Minister has been constrained to admit that the closing balance he expects to show for 1940-41 will be only 72 lakhs, *i.e.*, only 23 lakhs above the minimum balance that must be maintained with the Reserve Bank and in the treasuries and there had been occasions during the financial year which is closing "on which the balance of the Reserve Bank threatened to fall below the prescribed minimum and temporary advances had to be taken from the bank." This is an indication of a precarious existence for a Government and it was seriously thought if a loan should not be resorted to.

Already we are saddled with fresh taxation and we are threatened with more. The methods have not yet been decided upon. The actual bite has not been felt, but the bark is there. The Finance Minister has said that he is "now engaged in a survey of the possible sources of new revenue permitted to Provincial Governments" and he adds, "I anticipate that before the end of the year for which I have presented th estimates I shall place before the House proposals for new taxation." The Finance Minister will not be satisfied with an increase of 5, 10, or even 20 lakhs gained by draining the resources of the people almost dry. He must have more. "We might increase our revenue by 5, 10 or perhaps even 20 lakhs by enhancing the rates of our Provincial Tax Acts, such as the Entertainment Tax, the Electricity Duty, etc., but the time has come when it is essential, if we are to pursue the programme that we have set before ourselves, to select one or two fields upon which to concentrate and having made that selection to come to you with new taxation proposals that will give us the necessary resources."

What, Sir, is the programme that the Ministers have set before themselves? The work that has been done has only disappointed the people. In this connection, I would like to remind the House that the proposal for an Entertainment Tax was first advanced by Mr. Biss in his Primary Education Report. He made the suggestion that the proceeds of such a tax should be ear-marked for expenditure to be incurred to make primary education in the Presidency free and compulsory. When the tax was actually imposed after the inauguration of the Montagu-Chelmsford Constitution, the non-official members of the Bengal Legislative Council insisted upon the proceeds being spent on nation-building work. To-day not only are the proceeds swallowed

up to meet the ordinary expenses of the day-to-day work of administration, but we are threatened with the tax being increased.

I am sure, Bengal will protest against the inequity of fresh taxation, and any proposal for imposing a new tax or for increasing those existing will be turned down by this House as being detrimental to the true interests of the people whom this House represents. I am ready to concede that large sums will be needed for comprehensive schemes for education, sanitation, irrigation, etc., but unless and until such schemes are taken in hand there can be no justification for fresh taxation.

As this House is not competent to deal with financial matters, I will not go into the details of the Budget Estimates but will draw the attention of the Hon'ble Minister to certain items of expenditure.

I am glad to find that some attempt has been made to develop the nation-building departments. I would like that more money be provided under the following heads:—

Under the head Education no attempts have been made for the encouragement of Sanskrit Learning.

The grants of doles to the Sanskrit Association have been reduced instead of being increased. Unless the Government pay attention, the old classical languages will die out in no time. It is the right time that these be patronised and be saved.

Under the head Medical more provision should have been made for *dai* training. One can avoid disease by imparting education to these people, but infantile mortality will remain if our *dais* be not trained. In this connection, encouragement should be given to the *Unani* and *Ayurvedic* lines of treatment also.

Thirdly, under Public Health I find that only 7½ lakhs of rupees has been set apart for water-supply. The supply of pure water is most essential for health. Most of the diseases are due to want of pure water. Under the circumstances, it is highly desirable that more money should be provided for the supply of pure water by sinking tube-wells and other wells.

Again, only half a lakh of rupees has been provided for maternity and child welfare centres. At least one lakh should be provided for these beneficial works.

Then comes the Industries Department. The cottage industry as well as middle-sized industries should provide employment to the surplus agricultural population whom the land cannot support. It is known to the House that the agriculturists who live on the profit of the land remain idle for at least 6 months in a year and have no employment to take. By developing the cottage industry these men can be employed. We do not know what primary recommendations the

industrial survey committee have made, but whatever might be the recommendations I would like that some of their recommendations should be accepted and should be carried into action. With these words, I conclude my remarks for the present.

Mr. RANAJIT PAL CHOUDHURY: Before I begin my speech on the Budget I would like to ask the Finance Minister whether he has submitted any explanation to you, Sir, of his absence for which we lost a day. I do not know whether he has submitted any explanation to you; but considering the shabby way in which this House has been treated, I hope it would be in the fitness of things if he offers an explanation.

At the outset, I would like to make it clear that after such a scathing scrutiny of the Budget by my honourable friends Dr. Radha Kumud Mookerji and Professor Humayun Kabir, I do not think I would have that amount of audacity in me to make further comments, but I would like to emphasise with all the force that I command that any further taxation as is proposed by the Finance Minister on the people of this province would be inequitable, unjust and cruel, specially in the present economic condition which we are now passing through. Taxation will only further aggravate our misery and Government will be charged with teaching the people dishonesty and corruption, because they will try to evade the taxation and take to underhand means to escape this galling imposition. I am not against a fair and just taxation, provided the entire sum so derived is spent for the benefit of the people of this province. In England, the taxation is much higher than in this province, but there the people do not try to evade it or grudge paying it because they know that the entire amount they pay by way of taxation goes for their own benefit and has not got to be shared by a Central Government or anybody else. Our Government should exert and employ all available means to get the financial award revised so that Bengal may get a legitimate share of the revenue she earns from the Central Government in the shape of Income Tax, Customs and Jute Export Duty.

In this connection, I would like to make a quotation from the Arabian Nights which seems very proper. The quotation is:—

> "For others these hardships and labours we bear,
> For their's is the pleasure and ours is the care,
> Like the bleacher who blacketh his brow in the sun
> To whiten the raiments that other men wear."

We are only blackening our skins, we are only washing the linen and others are getting the benefit of our taxes. Sir, although there exists a Marketing Officer and with all the facilities, there does not

seem to have been any development in this line. I am inclined to believe that because a non-Bengali has been placed in charge of this department, things are not moving in the same way as they should.

As regards rural reconstruction, much headway has not been made in spite of the Finance Minister's glowing speech. Rural areas are vital centres for the growth of a nation and cannot in any way be neglected. Within rural reconstruction, I would like to include our educational improvements also. They should also have received a further grant. I cannot help repeating that instead of taxation and starving ourselves or drawing upon our reserves we should demand from the Government our legitimate dues for our own salvation.

Mr. KADER BAKSH: We have been given a few days' time for the general discussion over the next year's Budget; but without any control either to shape its policy or to alter any of the estimates, we cannot feel encouraged to take any very active part in the discussion. The Hon'ble the Finance Minister has given us a deficit Budget in spite of the fact that on the whole the present economic outlook of the province is brighter than it has been at any time during the last ten years. He has drawn upon the balances to meet the day-to-day and almost ordinary routine expenditure of the province, thus reducing the closing balance to its minimum. He has told us that owing to a deficit Budget and also as a precaution against the slump that must inevitably follow the conclusion of the war, he has avoided making any new commitments, to propose any new long-range schemes likely to involve the finances of the province in recurring expenditure. According to his own estimate, the Revenue position of the province is unsatisfactory and the developments of the nation-building departments must wait till the income can be increased and for this he has asked us to be ready for the imposition of new taxation. I do fully appreciate his difficulties and limitations due to the inelastic nature of the sources of revenue, but he has not given us any idea nor has he suggested any steps that should be taken for creating the capacity in the people to bear the burden of further taxation. I can assure him that we are ever ready to be subjected to further taxation, provided there is a corresponding increase in our income to take up any ameliorative measures calculated to increase the wealth of the province. Without this, all proposals of new taxation would not only be unjust but a blunder.

Now, I propose to deal in brief with the Budget Estimates on some of the heads. First of all, I take up Education. It appears that the provision made under this head is most inadequate, especially under the head Primary Education. I believe that the first and foremost duty of any civilised Government is to make an honest attempt to remove

illiteracy of the masses in mufassil areas not only for the benefit of the people themselves, but also for the safe and peaceful administration of the country. Their ignorance, their innocence, their utter helplessness to distinguish between what is for their good and what is not, due to want of education, have always been taken advantage of, rather exploited by some designing people not with a view to bring them any relief or redress but to spread disaffection between communities and communities, between different interests and sections of the people, and also to create a spirit of lawlessness in the masses with the final object of bringing the Government into hatred. I can cite an instance from the Kisan movement in my own district of Dinajpur and also in Jalpaiguri. These ignorant people were led to believe that with *lathis* in their hands and by holding meeting and by utterring communist slogans they will be able to achieve their ends. This irreligious, immoral and irresponsible movement will be creative of much mischief in the country. To combat all these, the only weapon is to educate the masses. Therefore, my earnest appeal to the authorities would be to provide sufficient funds—the entire amount of the jute export duty—to give immediate effect to the scheme of compulsory free primary education throughout the province and if need be to be supplemented by levy of Cess.

Under the head Education, I find a provision of half a lakh of rupees for the Bengal Bratachari Society. Sir, without entering into the merits and demerits, utility or otherwise of this movement, I must make bold to say that this movement must wait till the solution of the questions of primary education, water-supply and sanitation in rural areas.

Next I take up Irrigation. On my own behalf and on behalf of North Bengal I express sincere gratitude to the Hon'ble Finance Minister for at last attending to this much-needed problem of that huge but neglected part of the province. Better late than never. The vast area beginning from the north of the town of Dinajpur and extending to the west to the border of the province of Bihar and right up to the foot of the Himalayas to the north known as the "Parti" can be made fertile and productive with the introduction of Irrigation projects there. I shall most humbly request the Hon'ble Finance Minister to begin this contour survey in the districts of Dinajpur and Jalpaiguri immediately. My honourable friend, Khan Bahadur Mukhleswar Rahman, made a suggestion about such a scheme in his Budget speech last year.

Now, with regard to the Medical Budget, Public Health and Rural Reconstruction, I must thank most heartily the Hon'ble Finance Minister for providing a sufficient amount for the improvement of these heads.

With regard to Jute Survey, I have one word to say. Rs. 7 lakhs have been spent and I believe that the amount has not been well spent because vast tracts of areas have not been surveyed regularly. I believe those who were engaged for the survey did not go to those areas. Complaints in thousands have come to me, to the Subdivisional Officer, to the Collector and other representatives that those people who were engaged in the survey work did not go at all to those areas. Forms for putting in objection have gone short. They are not available even at a higher price. This is my personal experience, Sir, and I speak from personal knowledge. Then Sir, as there has not been a proper and regular survey for the restriction of jute cultivation, I would appeal most humbly and most earnestly to the Hon'ble Finance Minister and to the Government to withdraw the Ordinance, I mean the Jute Ordinance, for the current year. Otherwise, Sir, people will be subjected to the greatest possible hardships, because the areas have not been surveyed, and they will not be allowed to cultivate jute on any portion of their lands. It is for this reason that I appeal to the Government to suspend the Jute Ordinance for the present year.

Then, Sir, from a perusal of the Budget it appears that the entire activities of the Government have been centred round Calcutta and the districts of Dacca, Mymensingh, and Chittagong. Certainly, Sir, I do not grudge this.

The Hon'ble Mr. H. S. SUHRAWARDY: There is the contour survey of North Bengal.

Mr. KADER BAKSH: Certainly, Sir, I agree with the Finance Minister. For that Rs. 25,000 has been provided for the next year in the Budget with an ultimate provision of 4 lakhs for that scheme.

Sir, I do not grudge any provision being made for ameliorative measures to be started by Government for any part of the province. But at the same time, Sir, I cannot help bringing before the Government the dire necessities of North Bengal. I can inform this House, Sir, that beginning from the town of Dinajpur right up to the foot of the Himalayas, a long distance of about 100 miles,—for this area there is only one High English School at Thakurgaon. Is it, Sir, at all fair that, if the people have not been able to take steps to educate their own children, the Government should be sleeping over their rights and their responsibilities? Is it not the duty of Government to come forward with a helping hand to educate the people in those areas where they have hardly got any school? Do they contribute less than other parts of Bengal? They do not. The assessment of revenue in Dinajpur and Burdwan districts will prove that it is the highest in those districts. So, Sir, these districts in North Bengal should not have been neglected. We know, Sir, that they are very

much poorer than others, and so it is all the more reason why Government should come forward with a view to help these people who are backward, who are ignorant and who are illiterate. I do not put forth any claim, but I humbly appeal to the Government to take a little more care of the people in those neglected areas who are not sufficiently fit to take care of themselves. In making this appeal, I once again congratulate and offer my gratitude to the Hon'ble the Finance Minister for the provision which he has made for the irrigation of North Bengal. With these words, Sir, I conclude.

Mr. KAMINI KUMAR DUTTA: No doubt, Sir, the Hon'ble the Finance Minister has had a very short time at his disposal for the preparation of the Budget, but the Budget is not the work of one man. The Budget really reflects the mind of the Government, the Ministry. It is the Ministry which is responsible for the Budget. And if there be any criticism of the Budget, the Hon'ble Minister should not take it as a personal reflection regarding him.

Sir, the present Government claims to be the accredited representatives of the teeming millions of the country and if they wish to have this claim justified before the country, the Budget must be of such a character as to redound to their credit. Otherwise, they would be liable to condemnation at the bar of public opinion. I am constrained to observe that if anything is apparent in this Budget, it is the lack of a human touch behind it. There is absolutely no mind behind the Budget, conceiving well-planned schemes for the development of the resources of the country or for uplifting the masses from the morass of poverty into which they have sunk and from which they are suffering for a long period of time. No doubt, the Budget begins with a preliminary remark. The preface, I mean the statement which was handed over to us with this Budget, says that it does not contain any spectacular features. I must admit that the Budget does not err on this side. There is no feature at all in it, whether spectacular or non-spectacular. If the Budget reveals anything, it reveals only an attempt to save the face, an attempt to white-wash, by some isolated doles and grants to national institutions. But regarding that also, one has a misgiving in his mind whether those grants would really be made. In this misgiving and apprehension, we are fortified by our past experience. Grants have been made, grants have been shown in the Budget but no administrative sanction was accorded to the payment of such grants. Only a few days back, I myself had to put a question regarding the grant made to the *Viswa Bharati* in the last year's Budget, and the only reply that could come from the Government was that the Ministry was not really in a position to give any reply as to whether administrative sanction had been withheld regarding the grant. So, when we find that in this Budget, which is absolutely

aimless and drifting, there are doles here and there, grants here and there, we suspect whether they are really intended to be operative, whether they are really intended to be given. Not only in respect of the *Viswa Bharati*, but also in respect of the grants for the education of the Scheduled Castes, for the Waterways Board and for other schemes for which provision was made in the last year's Budget,—because of the want of a well-developed scheme Government could not spend even the money which was granted in the Budget. This only confirms the criticism that really what is lacking in the Budget is a well-developed, constructive, and a well-planned scheme for the development of the country. We can only say that the Ministry should think that it does not represent a party but that the Ministry is responsible to the whole country. Whatever might be the electorate from which a particular member is returned here, whatever may be the party to which he owes his allegiance, his first oath and his prime oath is to the people of the country and to the country itself, and in framing the Budget the Ministry should bear that in mind. One is pained to remark that this Budget bears ample traces of party pressure and individual pressure. There are attempts here and there to placate *caucuses*. If the Ministry is to rise above these back-stairs influences and if the Ministry is really to serve the country, then they must prepare a Budget which would really advance the welfare of the country and the welfare of the poor masses. Much is heard about love for the masses. But does the Budget really show that this love is genuine, that there is a genuine desire behind this Budget and in the mind of the Administration to serve the people? The true test of a good Budget is this—whether the Budget really reveals well-planned schemes, whether the Budget is preparing the country for producing more wealth, whether the Budget is providing ways and means for the people to earn more and for the people to have more wealth. The present Budget is absolutely nothing but—if one may be inclined to call it—a catalogue of doles and grants and only a list of the administrative expenses. It seems as if the whole revenue is to be spent up in oiling the administrative machinery. But what is the utility of this machinery unless it serves the people, unless it helps the people in their uplift? Simply running an administration is not the object for which really the Government or the Ministry is created. And coming to the Budget, if one would look for any sort of well-planned scheme, he will be absolutely disappointed. The present Government had the experience of three years' study of the problems of the province. So, it is not a case of a hasty Budget or anything of the kind.

The problem of war would not affect us in the least, nor is it being waged on our soil. Rather, if the Ministry would be alert and if the Ministry would have an alert mind, then advantage ought to be taken of the situation created by this great war so that the resources of the

country can be improved, to find out means by which there may be new avenues of earning. On the other hand in the Budget we only find a dark and dismal picture of an apprehended slump after the war. I will not deal with that problem at all, whether the slump will come or not. Economists differ as to what would be the after-effects of the war; economists differ on what is or would be the effect of the present war on the economy of this country. I will not go into these questions. I will not deal also with the inequitable allocation of revenue which has been very elaborately and very adequately dealt with by my honourable friend Dr. Mookerji. But simply our bemoaning over that unfortunate incident will not improve our position in the least. We must work out our salvation by harnessing all the resources available in the country. We have to work out a new plan so that our country may acquire the position of the rich countries in the world. So, this excuse of the want of revenue is no excuse. It is the old excuse that is being put forward always by an Administration which has no real imagination, which has no real mind and which has no desire to effect any improvement in the country. I shall not refer to those minor details which have been dealt with already by my honourable friends. The same thing I shall not repeat over again, but some of the features of the items I may like to deal with.

While dealing with Education, references have already been made to Higher Education and Secondary Education, and many of my honourable friends have dealt with that aspect. But another aspect which is often lost sight of, and which is the most important duty of the Administration, is the removal of mass illiteracy, a solution for which should be found by the Government. Our whole country is steeped in illiteracy.

I do not find anything in the Budget to show that there is any scheme for removing the illiteracy of the masses which is prevailing in the country. No means has been formulated to remove the illiteracy of the masses. So, this education scheme is absolutely wanting in any desire really to impart knowledge to the people of the country. I find, there is a provision for building halls, for constructing buildings, but mortars and bricks will not soothe the hunger for knowledge. Mortars and bricks will not really make the people educated. People won't get real education in stupendous halls or in big buildings. If we want to give real education to the masses, we should make provision for mass education, we should make provision for having the mass of the country educated. There is no provision even for elementary education and there are big talks of halls and buildings as if halls and buildings would make up for the primary want of making any provision for elementary education of the people of the country.

In dealing with Irrigation, it appears that that is a subject to which no attention has been paid. Irrigation is indissolubly connected with

agriculture, especially in some parts of Bengal. I do not claim to know the condition of all the districts in Bengal, but at least I am acquainted with some of the districts in Eastern Bengal where Irrigation has become a very important problem. Speaking of my own district of Tippera, I can say that a considerable portion of the northern portion of Tippera has been reduced to a condition in which it has become almost impossible to grow any crop during the ordinary rainy season. It may be due to the construction of the new railways or the construction of the new bridges or because of the clearing of jungles in the hills. But whatever might be the reason, the northern portion of Tippera is being inundated every year with the result that the ordinary crops which are grown during the rainy season cannot be grown and whole fields lie waste without any chance of any crop being grown. Now, if the Government rest content by simply saying, "We cannot fight against Nature", would that satisfy the hunger of the people? Would that give morsels of food to the mouths of so many hungry people there? From my knowledge of the physical features of this part of the country, I can say that irrigation can play an important part there. These people have been accustomed for the past long years to grow crops in the rainy season, but they would be prevented from growing crops in that season in that area if provision be not made for irrigation. When it appears that on account of change in the physical feature in this area it has become impossible for crops being grown in the rainy season on account of high flood, there is no reason why Government should not come to the rescue of the people and also for changing the season for growing crops by making provision for irrigation. Other progressive countries in the world have done it where they thought that it was necessary to fight with Nature. They have really defeated Nature by adopting other means. But here we find only an excuse for sufficient provision not having been made, and these people who are not able even to grow their ordinary crops have been left to their fate. These problems ought to be studied. There is no attempt to study the problem. I had the pleasure to wait in deputation on the Hon'ble Minister for Irrigation in connection with removing the silt of a certain river near Akhaura which is an important centre of trade. I have seen that river myself. Its bed has almost become paddy plots and the result is that not only Akhaura has ceased to be a trade centre, but the people living in the vicinity of that locality would really lose the benefit of river navigation too. These subjects ought to be taken into consideration and for that purpose a thorough study ought to be made.

Connected with it is the problem of agriculture Whenever we find that the subject of agriculture is dealt with, there is always a very large talk of an agricultural college, new appointments and construction of big buildings, as if these edifices would really spread knowledge to the rural population of the country. If we read history, we

find that countries which had no improved agriculture before are now making great improvement. They have established agricultural centres in the rural areas from which the knowledge of improved agriculture and the use of modern machinery is being spread throughout the country. (The Hon'ble Mr. H. S. SUHRAWARDY: There are also agricultural colleges.) Yes. I heard there are agricultural colleges, but mere colleges will not meet the needs of the situation. What is of immediate importance is to have agricultural centres in the rural areas, to impart knowledge about agriculture, and people must be taught to have a hankering for that knowledge. People must be taught that they should not think that agriculture depends upon the freak of Nature but that improvement of agriculture also depends upon human ability. But what do we find here? The people of this country think that improvement of agriculture depends upon luck, upon fate and upon the grace of God. This is how the need of agricultural improvement is being looked after.

While talking of the masses and of the uplift of the masses, we forget an important section of the public, I mean the *bhalralog* class, the middle-class. Though their sacrifice has been the highest, though they are suffering the most, though they have really brought the country to the condition in which we are, though they have really shed their blood for the uplift of the country, they are not heard of, as if they do not exist, as if they are a class whose problem is not a problem at all before the Government. But the extinction of that class would not really be to the good of the country.

Whenever we have to consider the question of the middle-class, the problem of industralisation arises in our mind, because it is not possible to feed this *bhadralog* class by giving a few billets or a few appointments. A vast field of industry must be created in the country to give scope to this class to earn their livelihood, to utilise their energy. If we look to the Budget, we find that industry has been given the go-bye. If for giving relief to this class we simply provide some money for big colleges, would that really solve the bread problem of that important section of the public? If that problem is to be solved, it can only be solved by a real growth of industry in this country to which the present administration has not paid the least heed. So, to whatever department we look, whether it be Education, Agriculture or Industry, we find that there is lack of well-planned schemes for the development of the country.

Sir, a deficit Budget is *ipso facto* no discredit to a Government at all, if Government can utilise the money for the improvement of the country. The Finance Minister has been talking of new taxation, but before any new taxation is imposed, the country must be satisfied that there is a scheme and machinery to work out the welfare of the country; otherwise new taxation would be nothing but oppression.

Rai SURENDRA NARAYAN SINHA Bahadur: In view of the deficit that he has shown in the Budget, I cannot say it is a prosperity Budget, but I must admire the cautiousness that the Hon'ble Finance Minister displayed in preparing his estimate for the coming year. The war is upon us and there is no certainty about the future. We must husband our resources to meet any emergency that we may encounter. But to make up for the deficit and for finding money for any schemes for development of the country, the Hon'ble Finance Minister has given hint of his intention of levying fresh taxation. The country has not yet recovered from the effects of the acute economic depression that set in some ten years ago. Some new taxation measures were passed by the Legislature last year and they have already caused some discontent in the country. However, I believe, if the sources of revenue already tapped be further explored and some economy is effected, the amount of deficit can be wiped out without much difficulty, nay, some money may be left over for the nation-building departments. All these calculations and anticipations have now been further jeopardised by the announcement of the practical abrogation of the Niemeyer Award with the expected issue of Order in Council now passing through the Parliament. It is therefore nothing but a counsel of prudence to try to make retrenchment in provincial expenditure.

Coming now to the detailed provisions of the Budget, I think it to be my duty to voice public feeling about the absence of grants for the *Vishwabharati* Educational Institution which cannot be too generously helped. Last year there was a provision in the Budget for granting Rs. 25,000 to that institution, but it was published in the press that the sum had not been disbursed. It has to be explained by the Hon'ble Finance Minister why this was so and why anything has not been shown in the present Budget estimates. The State Faculty of Ayurvedic Medicine has been given the paltry sum of Rs. 1,000 for the first time, though the Faculty is a State Faculty. An inadequate sum has been granted for an edition of the *Mahabharata* now in course of publication. There is no provision for Rural Health Units in the Budget for Public Health for the new schemes now pending before Government. A Co-operative Hall is felt to be a great want as a meeting place for co-operative men when assembling in Calcutta. Water-supply problem in the districts has not been provided for in the Budget. Loan application for water-supply of Murshidabad District Board still remains undecided. This is really amazing.

Coming to the local wants of Murshidabad and adjoining districts, it is a matter of satisfaction that there will be improvement of the Kandi-Sainthia Road *via* Sultanpur. But the non-utilization of the Road Funds up till now in developing the road systems of the districts has always been a grievance of the people. The recent floods have

thrown up new problems for the district of Murshidabad and draining out of water-logged areas of Murshidabad are required early; a contour survey of the district has been completed and measures are to be taken, but I do not find money for the purpose in the Budget.

Regarding jute revenue and jute affairs, I agree with the remarks made by the European group.

The Hon'ble Finance Minister has been faced with difficult circumstances, but I hope that he will meet them with courage, with the co-operation of all the parties and individuals.

Sir, these are the few remarks that I have to make in connection with the Budget.

Mr. LALIT CHANDRA DAS: It is my misfortune that I am unable to congratulate the Hon'ble the Finance Minister, or, more correctly the Finance Department, for the Budget which has been presented for the year 1940-41.

The expected revenue is 13 crores 97 lakhs as against an expenditure of 14 crores 54 lakhs, which leaves a deficit of 57 lakhs, to which must be added the deficit of Rs. 26 lakhs under the head "Capital and Debt Deposit".

This is the second deficit Budget since the inauguration of the New Constitution in Bengal. The Hon'ble Mr. Suhrawardy, therefore, could point to Mr. Nalini Ranjan Sarker and say that Mr. Sarker could do no better. In fact, the Hon'ble Mr. Suhrawardy went a step further and almost complained that the surplus of 1 crore 53 lakhs of 1937-38 disappeared in the course of the last two years.

It should be remembered, however, that the apparent budgetary opulence of 1937-38 was due to the wiping out of the debt of the Bengal Government by the India Government and its liberal grant to enable Bengal to start with a clean slate. It never represented the true state of affairs in Bengal.

In fact, the old Government before the start of Provincial Autonomy was suffering for a number of years from deficit Budgets and became indebted to the Central Government to the tune of 8 crores of rupees. The Niemeyer Award partially rectified the Meston wrong. What, therefore, is most necessary for Bengal is to devise ways and means to prevent the chronic indebtedness and to ensure what I should describe as a prosperity Budget.

For this the Government's first and foremost duty is to make the people rich and be rich themselves. You must know how to defend your own wealth. Jute is Bengal's monopoly and the export duty on Bengal's jute should belong wholly to Bengal. We desire to know what consistent and persistent efforts were made by the Bengal Government to keep as its own this portion of Bengal's wealth from being

bilched away. And then, Sir, section 138 of the Government of India Act provides for asignment to the provinces of a share of the net proceeds of taxes on income, Bengal's share of the assignment in any year being 20 per cent. We desire to know whether any effort has been made by the Bengal Government to get at least 80 per cent. of the income-tax derived from Bengal. Or does the Bengal Government want to wait without any representation to the Government of India for such crumbs as may please the latter to give from the net proceeds of the income-tax? The allocation to Bengal of these two taxes can free this province from deficit Budgets and the local Government should agitate for it.

While on this point, Sir, I should like to urge upon this Government the necessity of nationalizing some of the key industries of Bengal, particularly the Jute industry. The Government should borrow money, if necessary, and yet nationalize the Jute industry of Bengal. The huge profits which this industry, which is in the hands of foreigners, is making should be an eye-opener. Once on the right track the Government of Bengal should never be in want of materials for balancing the Budget or in want of money for financing the nation-building departments.

True, Sir, the sources of revenues given in this List II of Schedule VII of the Government of India Act, 1935, are few and do not offer sufficient scope for fresh revenues to meet the increasing needs of the province.

Tax on agricultural income and a sale tax may bring an appreciable rise in receipts, but so long as there are no well-laid plans for ameliorating the condition of the masses and machineries ready to execute them exist and so long as all possible retrenchments in administration costs are carried out, no fresh taxation should be resorted to to meet the ordinary expenses of administration. Bengal must cut its coat according to its cloth. It is regrettable that, without any plan whatever and without effecting retrenchments, taxes on amusement, electricity, etc., and the most iniquitous flat tax of Rs. 30 per head on all income-tax-payers were imposed and spent to meet the ordinary costs of administration.

I will enumerate some of the directions in which the Ministry could try in future to balance the Budget. Ministers should begin by reducing their own salaries to the Congress standard of Rs. 500 and thus set an example to others. They should abolish the posts of Parliamentary Secretaries as unnecessary as also the other superfluous jobs, *e.g.*, those of the Commissioners of Divisions, Inspector-General of Police, Inspector-General of Prisons, etc. I am only enumerating some of the posts which might be done away with without any prejudice or loss of efficiency. The Ministers should give up their exodus to Darjeeling and also their frequent tours to the different parts of

the province, which, judging by the nature of speeches they make while on tour and the activities they carry on, do more harm to the province than good.

Many of the building works, *e.g.*, combined office and quarters for Sub-Registrars, who, surely, were not working homeless so long, may conveniently be put off till better days.

Sir, why should original building works, *e.g.*, construction of stables and servants' quarters in the Government House, Darjeeling, reserve for works in connection with Government Houses, reserve for minor works in connection with the Barrackpore Government House, extension of Collectorate Buildings at Mymensingh, construction of a residence for a Sub-Deputy Collector of Jhargram in the district of Midnapore, reserve for minor works grant of the Commissioners of Divisions, witness-sheds in civil courts in Bengal, several original works for police buildings—to mention only a few—be undertaken in such a budgetary year as this. Mark, Sir, in contrast that the Government is not stirring itself, even according to the promise of Sir Bijoy to give the district of Noakhali a district headquarters, for the want of which the people of Noakhali are suffering terribly.

Sir, the maximum yield under Stamps, both judicial and non-judicial, amounted to 3 crores 91 lakhs and 97 thousand rupees in 1929-30. It fell off to 2 crores 57 lakhs and 77 thousand rupees in 1938-39, and this year it has been shown at 2 crores and 65 lakhs of rupees. This downward trend in court-fee receipts are traceable to the policy of the Government, as revealed in the Agricultural Debtors Act, an Act which, without benefiting the agriculturists to any appreciable extent, has killed rural credit through the operation of the Debt Settlement Boards. A reversal of this policy would give Government an appreciable rise in the income under Stamps.

Sir, to one of the questions relating to Settlement Operations, the Hon'ble Sir Bijoy Prasad Singh Roy replied that Settlement Operations would no longer be continued. Sums, however, have been allotted for carrying out settlement work in the district of Bakarganj, and out of an estimate of over 40 lakhs a sum of 4½ lakhs will be spent on this district. Cannot this sum be saved by stopping all settlement works in that district?

Sir, if my memory serves me right, a good and a round sum of 40 lakhs was given to the agriculturists last year as loan besides gratuities to help them to tide over the ravages of flood and to meet the difficulties caused by scarcity of money, food, or raiment. That was a good thing done, Sir, and the agriculturists are now well off. And if a determined effort is now made by Government to realise those loans, their efforts are bound to meet with success with the result that the

Exchequer will be replenished to such an extent that, together with the suggested sources of economy, the Government will find no difficulty in making the receipts square with the expenditure, and all fears of fresh taxation will vanish into thin air, unless, of course, the Government is determined to impose new taxes on the specious plea of a slump after the war. For ourselves, Sir, we deny there will be any such slump. The previous history of the last Great War does not warrant any such assumption. But I forget that, with an unreasoning Government, any stick will be found good enough to strike the dog with.

I, however, do not deny the necessity of increasing the revenues of this province to meet the ever-increasing need for ameliorating the condition of the masses and for making rapid progress in all nation-building subjects. But so long as there are no plans and no machinery to carry them out, the proposals of taxation must be opposed. As I have shown, no just cause exists for fresh taxation. Up till now no well-thought-out plan of work spread over, say, 5 years, redounding to the credit of the Ministry has been laid on the table, although the Ministers were profuse in their promises of such plans. Such plans have up till now not materialised.

Sir, a tendency to earn cheap applause without meaning to do work should cease. Oftentimes expenditures are shown against receipts in the framing of Budgets, and those expenditures are not carried out. Rupees 14¾ lakhs in the Central Fund Account and 2 lakhs of Public Health, 4¾ lakhs in the Scheduled Caste Fund Account could not be spent, yet some of our Scheduled Caste friends, simple in their belief, cling to the apron strings of the Treasury Bench.

There are certain unfortunate features in the Budget which savour of communalism. The distribution of increased grant in Education will prove my contention put side by side with the non-utilization and practical refusal of voted moneys for *Santiniketan* and *Sriniketan* in Bolpur. The party in power standing in the way of expenditure of a voted grant gives a dangerous precedent and is a source of embarrassment and an insult to the Legislature.

Sir, the Government's policy of dividing the Hindus and the Muhammadans for the purpose of giving them educational institutions and appointments in public services tending to disunity where there should be unity between the Hindus and the Mussalmans is highly to be condemned. Look to the Budget and the *muktabization* of primary schools and some of the higher schools in the province for the children and youths, both Hindus and Muhammadans, of Bengal and the division in public services without making efficiency the sole test. All these are harmful to the cause of the country and highly to be deplored.

Primary education is good, but it will be prolific of evil if it is conducted on communal and religious lines. One of the worse evils Indian Nationalism suffers from is the over-emphasis that is laid by Indians on religion.

A Government which is once on the wrong path runs from one wrong to another. And so we find that the revenues of the province are being wasted in pursuit of a policy of repression. Under the plea of war emergency they are steadily encroaching upon the civil liberties of the people. The policy of repression is being continued with increasing vigour. There have been of late several cases of internment, externment, of arrests and imprisonment of peasant workers, labour leaders, students and Congressmen. Not content with these they have fallen upon the liberty of the Press also. On its order on the "Hindusthan Standard" there were two motions for adjournment in both the Houses. At that time, Sir Nazimuddin emphatically declared that it was a solitary case and for one individual case against the Press it cannot be urged that the Government adopted a policy against the liberty of the Press. Conceive therefore my surprise when to-day, Sir, I got a communication from Chittagong that the Government of Bengal [Home (Political) Department] by Press Order No. 552P., dated Calcutta, the 27th January, 1940, served on the editor of "Deshapriya," Chittagong, a very popular paper, a notice calling upon the editor, an estimable gentleman, Babu Charu Bikash Dutt, not to publish any matter in "Deshapriya"—mind not merely the leading articles as in the "Hindusthan Standard"—before it is submitted for scrutiny to the District Press Adviser in Chittagong. Those who were working and earning their livelihood by conducting that paper have now been thrown out of employment and that paper to all intents and purposes has been gagged.

We must deplore also the unfortunate mentality of the present Ministry which by adopting slowly but surely this policy of repression for no just cause is unnecessarily preventing the release of some lakhs of rupees from the head Jails and Convict Settlements for being utilised for the advancement of the people. This they can do by giving up their policy of repression and by releasing all political prisoners. I think their immediate and unconditional release under the atmosphere prevailing in the province for the past 4 or 5 years would be quite justifiable. Instead of doing that the Government in pursuit of their repressive policy are seeking new sources of expenditure hardly justified by the receipts. Nothing untoward happened when over 3,000 detenus were released. On the contrary a very large sum of money was set free for the welfare of the province. I don't understand why the people are being arrested and thrown back into prisons and political prisoners are not being released.

In one part of the speech of the Hon'ble the Finance Minister we read that he deplored the conditions in which the ill-educated, ill-clad, ill-housed and malaria-stricken sons of Bengal live.

I hope he felt for them as he said, and I trust he will make the growth of chinchona plants in Bengal for the manufacture of quinine free and will not put any obstacles in the path of the people who can grow that plant in Bengal and prepare that medicine. This would be one way of translating his sympathy into action. And the other way would be to spend more for its cultivation in Darjeeling side of the Himalayas and arrange for free distribution of quinine in large scale in malaria-stricken parts of the province.

The health of the people of Bengal as much as the industrialisation of the province and the removal of illiteracy of the masses are the real and true source of Government income. Tackle these problems and you will have tackled as well as the problems of unemployment which is eating into the vitals of the society.

Rai Sahib INDU BHUSAN SARKER: Mr. President, Sir, as I rise to speak on the Budget, I must at the outset offer my sincerest congratulations to the Hon'ble Finance Minister who within so short a time of his assumption of this portfolio has been able to take a complete grasp of a country's Budget in all its intricacies, and also for the very able and lucid manner in which he has presented his Budget. It speaks of no mean achievement on his part. But the state of finances of the province which he has revealed in his Budget statement has been disappointing to the people, at it has been to the Finance Minister. Provincial Autonomy in Bengal started with a clean slate, and by the Order-in-Council giving effect to the Niemeyer Award substantial resources were made available to the Provincial Government to take up nation-building activities on an increasing scale. But what do we find to-day? At the conclusion of only three years' working of the new Constitution, provincial finances have been reduced from a position of great solvency to one of utter bankruptcy. The Budget for 1940-41 is a deficit Budget like its predecessor. The year 1937-38, the first year of Provincial Autonomy, opened with a revenue surplus of Rs. 1,17·7 lakhs and had an opening balance of Rs. 1,05·8 lakhs. To-day from the Budget Estimates of the next year we find that not only revenue surplus has been replaced by huge deficits, but also our opening balance has been reduced to a dangerously low level, which the Finance Minister has himself admitted, and that temporary advances under the Ways and Means position from the Reserve Bank has enabled the Government to meet the obligation of keeping the statutory minimum with the bank. At the end of the next year the balances would stand at only Rs. 72 lakhs. This is a sad state of affairs. I do not propose to go into the actual receipts

and expenditure for the next year, figures of which have been given in the Budget and with which we all are aware. I shall, however, content myself with some general remarks that are pertinent to a Budget discussion. Sir, I have, of course, no fetish for financial orthodoxy and budgeting for a surplus. A surplus Budget is not necessarily the best Budget. A Budget to be regarded as a sound Budget, judged by all canons of public finance, must contain a plan—a well-thought-out comprehensive plan—for the moral and material advancement of the people. Such a Budget might even be a deficit Budget in some cases. Taking the Budget over a number of years, if it shows a surplus and if as an instrument of Government policy it can increase national prosperity, it should be regarded as a sound Budget. This is commonly known as the cyclical Budget. Such a procedure should have been followed by the Finance Minister, if he aims at prudence to attain material prosperity of the people. Looking from this angle, I do not consider the deficit in the Budget by itself to be a very dark feature of the state of our national finance. But when I look at the expenditure side of the Budget, I am constrained to remark that my feeling is altogether different. Most of the nation-building departments have been allotted more money in the next Budget, as will be evident to you from Appendix II of the Statement made by the Finance Minister. For example, Rs. 5 lakhs 89 thousand have been the increase on account of the Irrigation Budget. A few minor schemes of irrigation have only been attempted, but the Finance Minister has given us no indication that the Government intend to take a complete hydraulic survey of the province, so that on the findings of that survey schemes may be put into operation for revivifying the dead and dying rivers, silted up canals and river beds of the province. Speaking for my district, I mean Faridpur, I want to draw the attention of the House to the fact that two main rivers flowing through the district, namely, the Kumar and the Madhumati, are in a process of being dried up, and navigation in those rivers has become extremely difficult. River communication between Madaripur and the district headquarters is extremely inadequate and insufficient. I am grieved to find that no provision has been made in the next year's Budget too for the resuscitation of these rivers. The Medical Department has been fortunate in getting an increased grant of over Rs. 7 lakhs, but that disbursements have not been judiciously made, according to the urgency of the case, will be plainly evident from the fact that no grant has been made to the Jadavpur T.B. Hospital. It is a pity that such a noble institution has not been given anything. I on my own part fail to understand why an amount of Rs. 5 lakhs 62 thousand in excess of the current year's grant has been provided for Debt Conciliation in the coming Budget. When the Bengal Agricultural Debtors Act was enacted it was thought the Debt Settlement Boards would be abolished after a few years, and they would not

remain a permanent feature of the Budget. This hope has also been falsified in the next Budget. More money has, no doubt, been provided in the Education Budget. But have the Government been able to chalk out an educational policy for the province? Sir, the Hon'ble Premier in charge of Education and the Hon'ble Finance Minister went on tour to Faridpur and they paid a visit to the existing Government Middle English Girls' School and gave us a definite assurance that the school would soon be raised to the status of a full-fledged Government High English School for Girls. But, Sir, I am sorry to find that no provision has been made for this purpose even in the next year's Budget. I would again draw the immediate attention of the Honble Ministers for giving their sympathetic consideration to this much-needed institution. Even what the Government are doing for introducing free and compulsory education in the province is of a halting and half-hearted character. Rs. 5 lakhs allotted for primary education in the cess-paying districts is too inadequate.

Sir, regarding the method of collection of education cess, I suggest that tenants' share should be collected by the Union Boards or some other agencies and not be thrown to the shoulder of the zemindars who have been reduced to almost bankruptcy and are not in a position to give their own share. So, I would earnestly appeal to the Government to see that zemindars and tenants should give their education cess separately in order to lessen the burden of the former. The present educational grant is something like a sop to popular demand and it should have been much more than the budgeted amount. Sir, so far as the Agriculture Budget is concerned, only Rs. 5 lakhs have been provided for Famine Relief, a sum likely to fall far short of requirement. Three lakhs has again been placed at the disposal of the District Officers for rural reconstruction, as if rural reconstruction work can be done in such a tinkering manner without any plan whatsoever. Thus, it will be clearly evident to you, Sir, that grants have been made without any consistent plan. They are in the nature of doles, the largest share being given to those items where political pressure has been greatest. The Hon'ble Finance Minister has threatened us with fresh taxation. The country is already overtaxed and any proposal of new taxation at this stage is likely to be strongly taken exception to. Why the Finance Minister proposes to raise fresh taxes? Is it to finance the revenue deficit? The Government have, no doubt, curtailed expenditure in some directions; but may I ask, could not further retrenchment be effected before fresh taxes are being tackled of? Have the Government done all they could do to economise their expenditure? Could not expenditures on the General Administration and Law and Order accounts be curtailed? On the other hand, expenditures on these two items are continually mounting up. It might be argued that other provinces have also imposed fresh

taxes and there is no reason why in Bengal there should be none. But the analogy of other provinces in this respect does not hold good. There the provinces have thrown away sources yielding substantial revenue as a matter of policy, viz., Prohibition. So much puchasing power, therefore, lies at the hands of the people, which the Government can certainly tap by some other means. But this cannot be said of our Government. Some of my honourable friends have suggested that the Government might approach the Central Government for larger shares out of the proceeds of the Jute Duty and Income-tax other than levied as Corporation tax. But it is futile to expect larger share on these two heads so long as the war continues. Only the other day, amendment to the Orders-in-Council has been made which reduces the provinces' share of 50 per cent. by Rs. 4½ crores at least for the next three years.

One word more, and I am finished. Sir, to me it appears that the Budget does not reveal a true picture of the financial situation of the province. The deficit is likely to turn out more than what is expected. For the Finance Minister himself has said that "estimates of expenditure have been made on the basis of normal pre-war prices, and that the Government shall have to meet unexpected demands arising out of the war and to face higher prices in many directions." Of course, when the war has been on us for nearly six months, there is no justification for making estimates on the basis of pre-war prices. Prices are sure to rise; and consequently the deficit will also mount. In a word, it seems, if the budget is to be regarded as a mirror of the schemes of the Government, then the Government are not at all serious about their business. What is supremely needed at the present moment is a well-thought-out comprehensive scheme of national development on a planned basis.

Adjournment.

The Council then adjourned till 2-15 p.m. on Tuesday, the 27th February, 1940.

Members absent:

The following members were absent from the meeting held on the 26th February, 1940:—

(1) Mr. Nur Ahmed.
(2) Mr. Moazzemali Chowdhury.
(3) Mr. Humayun Reza Chowdhury.
(4) Khan Bahadur S. Fazal Ellahi.
(5) Mr. Mohamed Hossain.
(6) Khan Bahadur Syed Muhammad Ghaziul Hu
(7) Khan Bahadur Maulvi Muhammad Ibrahim.
(8) Maulana Muhammad Akram Khan.
(9) Mr. H. G. G. Mackay.
(10) Rai Bahadur Satis Chandra Mukherji.
(11) Khan Bahadur Ataur Rahman.
(12) Mr. J. B. Ross.
(13) Khan Bahadur M. Shamsuzzoha.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES.

THE COUNCIL met in the Legislative Chamber of the Legislative Buildings, Calcutta, on Tuesday, the 27th February, 1940, at 2-15 p.m. being the sixth day of the First Session, pursuant to section 62(2)(*a*) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Orders issued under section 34 of the Bengal Agricultural Debtors Act.

32. Rai BROJENDRA MOHAN MOITRA Bahadur (on behalf of Mr. Ranajit Pal Choudhury): Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state—

(*a*) whether instances have not, of late, come to his knowledge in which the Chairmen of certain Debt Settlement Boards have wrongfully kept alive the orders issued under section 34 of the Bengal Agricultural Debtors Act—even after the dismissal of the applications; and

(*b*) if the answer be in the affirmative, what step or steps he has taken or proposes to take to put an end to such a state of things?

MINISTER in charge of the CO-OPERATIVE CREDIT and RURAL INDEBTEDNESS DEPARTMENT (the Hon'ble Mr. Mukunda Behary Mullick): (*a*) No.

(*b*) Does not arise.

Interpretation of certain sections of the Bengal Agricultural Debtors Act.

33. Rai BROJENDRA MOHAN MOITRA Bahadur (on behalf of Mr. Ranajit Pal Choudhury): Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state—

(*a*) whether it has come to his knowledge that in some places the Debt Settlement Boards have put different interpretations upon some sections of the Bengal Agricultural Debtors Act;

(*b*) if so, whether in consequence of such conflicting interpretations, irregularity has occurred in the administration of the provisions thereof in those places; and

(*c*) if so, whether he proposes to bring about such an amendment of the Act as will vest the District Judges with powers of second appeal from the decisions of the Boards?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: (*a*) No.

(*b*) does not arise.

(*c*) The hon'ble member's attention is invited to the provisions of the Bengal Agricultural Debtors (Amendment) Bill as passed by this House on the 19th January last.

Khan Bahadur NAZIRUDDIN AHMAD: With reference to answer (*a*), will the Hon'ble Minister be pleased to state if it is a fact that the interpretations of the Debt Settlement Boards are uniform or that no information is available to the Ministry?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: It is very difficult to give an answer to that question. All that I can say is that if the Boards commit mistakes, there is always provision for an appeal to the Appellate Officer.

Khan Bahadur NAZIRUDDIN AHMAD: Is it a fact that the decisions of the Debt Settlement Boards are very very divergent throughout the area?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Not unlikely, because we have got at least 300 to 400 Debt Settlement Boards. It cannot be expected that their decisions will be uniform.

Publication of an article captioned "Observance of Deliverance Day" in "Desher Vanee".

34. Mr. LALIT CHANDRA DAS: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether it is a fact that *Desher Vanee*, a Bengalee weekly of Noakhali, has been asked by the Additional Secretary of the Home Department to furnish information in connection with an article captioned "Observance of Deliverance Day", published in the issue of the paper, dated the 3rd January, 1940?

(*b*) Will the Hon'ble Minister be pleased to state what matters were published in that paper to which Government has taken exception and for which information has been sought and to state further under what rule or law such information has been required?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) Yes.

(*b*) The hon'ble member is referred to the terms of the order itself, a copy of which is placed in the Library.

The Bengal Cruelty to Animals (Amendment) Act.

35. **Mr. LALIT CHANDRA DAS:** Will the Hon'ble Minister in charge of the Home Department be pleased to state whether the promised extension of the Bengal Cruelty to Animals (Amendment) Act to the districts of 24-Parganas and Howrah will now be carried out? If not, why not? What has Government so far done to implement its promise?

The Hon'ble Khwaja Sir NAZIMUDDIN: Negotiations with the local bodies interested in the matter are not yet complete.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state how long will the Government take to complete the negotiations?

The Hon'ble Khwaja Sir NAZIMUDDIN: It is very difficult to say. As I stated in the House more than once, it depends largely on the local bodies coming up with an organisation that can carry out the duties imposed upon them by the Act and the question of money is also there. Up till now the local bodies have not been able to get up an organisation which would be prepared to shoulder the responsibility.

Mr. LALIT CHANDRA DAS: When was the last negotiation made?

The Hon'ble Khwaja Sir NAZIMUDDIN: It is continuing; there is no question of ending it. Efforts are being made by local officers to establish a society which can undertake the duties.

Mr. LALIT CHANDRA DAS: Efforts are being made for the last one year and a half and still not a single society has been found?

The Hon'ble Khwaja Sir NAZIMUDDIN: It is not a question of an organisation being found. It is a question of expense and somebody must be responsible for the expenditure.

Mr. LALIT CHANDRA DAS: Cannot Government find the money also?

The Hon'ble Khwaja Sir NAZIMUDDIN: Government are not prepared to shoulder the entire responsibility.

Mr. LALIT CHANDRA DAS: Are they prepared to take the partial responsibility?

The Hon'ble Khwaja Sir NAZIMUDDIN: That will depend on any concrete scheme that might be put up before them.

Ban on Comilla Abhoy Asram.

36. Mr. LALIT CHANDRA DAS: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether Government now proposes to withdraw the ban on the Comilla Abhoy Asram?

(*b*) In respect of how many institutions in Bengal such ban is still persisting?

(*c*) Will the Hon'ble Minister be pleased to give names of those institutions in Bengal on whom ban is still continuing?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) No.

(*b*) 39.

(*c*) A statement is placed in the Library.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state what is standing in the way of withdrawing the ban on the Comilla Abhoy Asram?

The Hon'ble Khwaja Sir NAZIMUDDIN: The reason that led to the ban being imposed still exists and in war time I do not feel justified in withdrawing the ban.

Interim Report of Select Committee on the Bengal Shops and Establishments Bill, 1939.

The Hon'ble Mr. H. S. SUHRAWARDY: May I on behalf of the members of the Select Committee on the Bengal Shops and Establishments Bill, 1939, beg to submit our interim report?

Mr. PRESIDENT: Yes.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I have to submit an interim report, because we have not been able to prepare the final report for being placed before the Council on the 28th of February, 1940, the day on which the Council by a motion directed the Committee to present their report. I, therefore, ask that the Council may be pleased to extend the period for the submission of the report to the 15th of April, 1940.

Mr. PRESIDENT: The question before the House is: that the period of submission of the report of the Select Committee on the Bengal Shops and Establishments Bill, 1939, be extended from the 28th of February to the 15th of April, 1940.

Mr. HUMAYUN KABIR: May I make one remark on this point? I think the Hon'ble Minister will agree with me when I say that it is very unfortunate that many members of the Select Committee have not attended the meetings of the Select Committee and that on two consecutive occasions meetings of the Committee could not be held on account of want of quorum. May I with your permission move an amendment to the original motion which was carried and make the quorum 3 instead of 5 as provided for in that resolution? If there is no objection, I think the change might be effected. I think the Hon'ble Minister has no objection to this.

The Hon'ble Mr. H. S. SUHRAWARDY: If it is in order, I have no objection to reducing the quorum from 5 to 3.

Mr. PRESIDENT: It is a very important Bill and that is why I think it would not be proper to have the quorum reduced from 5 to 3.

Mr. HUMAYUN KABIR: But, Sir, it has failed to meet on two consecutive occasions on account of quorum.

Mr PRESIDENT: If the quorum is fixed at 3, some of the parties might feel that they are not at all represented. Further, as the subject is an important one, I cannot allow the matter to be discussed at this stage without notice.

The question before the House is: that the period for submission of the Report of the Select Committee on the Bengal Shops and Establishments Bill, 1939, be extended from the 28th February, 1940, to the 15th of April, 1940.

(The motion was agreed to.)

Mr. HUMAYUN KABIR: There is one other matter to which I would like to draw the attention of the Hon'ble President. The proofs

of the proceedings of the Bengal Legislative Assembly are generally placed in the library and it is of great convenience to the members in that they are able to consult them there. May I request you to direct that the proof copies of the proceedings of the Council also should be placed in the Library?

Mr. PRESIDENT: The Chair will consider the question.

The House will now resume further discussion of the Budget Estimates for 1940-41.

GENERAL DISCUSSION ON BUDGET.

Khan Bahadur M. ABDUL KARIM: Mr. President, Sir, on behalf of my party it is my pleasant duty to extend our sincere welcome to our new Finance Minister. As is the way with elderly people, although we make new friends, we seldom forget the old and, as a matter of fact, we sincerely miss the presence of the ex-Finance Minister, Mr. Nalini Ranjan Sarker, who by his towering personality, gentle disposition, and amiable manners had endeared himself to all of us. It is a matter of still more regret to us that we shall hear his sweet eloquence with a sprinkling of sturdy common-sense no more in this hall. Although we welcome the new Finance Minister, it is equally our duty to offer on behalf of my party our sincerest condolences to him in his bereavement, perhaps the saddest that can fall to the lot of a man,—the death of an only son,—and we hope and pray to God that He may give him strength to bear up this terrible affliction.

Sir, this is the fourth time that I have been speaking on the Budget, and I need not recapitulate my objections to the Budget, which I have placed before the House in previous years. I have no fault to find with any particular Finance Minister, but I think that I could not up till now reconcile myself with the principle on which the Budget has been framed during the last four years. Some of those principles are well known to the hon'ble members of this House; I explained them on the last occasion. As a matter of fact, no Budget can be acceptable to me or to any member of my party which is not framed in accordance with a human back-ground behind it, and which does not take note of the actual needs and the requirements of the population entrusted to the charge of particular administration. We have been told that Government is a machinery. It means that it is neither he nor she; it is "it" and in the majority of such administrations there is the absence of that human element which ought to determine the affairs and welfare of men. It is mainly on that principle that I have all along objected to the Budget and also suggested to the former Finance Minister that there should be a Standing Finance Committee, as there is one in the Central Legislature, in which the members of both the Houses, at least

the leaders of both the Houses, must take part. Although Mr. Sarker gave me some reason to hope that a Finance Committee would come into existence or rather would be established, as a matter of fact, nothing more is heard about it now. That was especially necessary because the Upper House (Mr. RANAJIT PAL CHOUDHURY: Have patience) was not represented in the Cabinet, and it must be a great misfortune for the province of Bengal that the riper experience and the wider knowledge of the members of this House, His Excellency the Governor cannot take advantage of. For that reason, I suggested that we were willing to give advice, although we may not enter the threshold of the Cabinet. Take our advice in full.

Mr. SHRISH CHANDRA CHAKRAVERTI: They do not want it.

Khan Bahadur M. ABDUL KARIM: It is no good placing the Budget before us for only three days' discussion. The amount of time is not ample anough to give them the proper advice that we are in a position to give. So I suggested this as an alternative, because there was no possibility of any member of this House being taken on in the Cabinet.

Mr. RANAJIT PAL CHOUDHURY: There may be possibilities in future—next month.

Khan Bahadur M. ABDUL KARIM: Trust no future, however pleasant. Now, Sir, as the time at my disposal will be very limited because there are other honourable members willing to speak, I will take up only a few points and submit them before the Hon'ble Finance Minister for representation before the Cabinet.

Sir, it is quite true, as the Hon'ble Finance Minister said and it is a matter of common knowledge that the sources of revenue as they have been allocated to this province are inelastic. Dr. Mookerji the other day found fault with the Central Government that they had limited the resources of this province. I, Sir, will not take the trouble to go to Delhi and make a complaint against Delhi. I have my grievance against my own Government. It is this. The sources of provincial income are limited, but the expenditure is expanding. The only thing that the poor Finance Minister of Bengal can do is to think of fresh fields and pastures new. I thank the present Finance Minister for his boldness in making two statements in connection with the Budget, and I am particularly grateful to him for both these statements.

The first is the official pronouncement that has fallen from him that Bengal is ill-educated, ill-fed, ill-housed and malaria-stricken. I am particularly thankful for this official pronuncement because, Sir, this

is a matter which every mother's son in Bengal knows but, coming as it does as an official pronouncement, my submission before this House is that this is the first milestone in the progress towards our political emancipation and our economic progress. Once you admit this cardinal point that Bengal is such-and-such, that would give you very strong grounds to approach the Government of India with the object of getting more money from it. It will strengthen our hands and it will open the eyes of the Provincial Government also to the immediate necessity of finding resources anyhow either by retrenchment or by further taxation, leave alone the question of floating a loan for the present. Now, Sir, it brings to my mind the saying of that satirist Persian poet Khaqani who said,

Bar iin máni mohaqqak shùd Ba Khaqani,

Kay Nani Zowja ey Nana O Nana Shauharey Nani.

It means this: "After long years of research and historical study, I have discovered a great truth and that is that the grand-mother is the wife of the grand-father and the grand-father is the husband of the grand-mother." That Bengal is ill-fed is a matter of common knowledge. It gives me a strong handle to *pakrao* this Government and also approach the Central Government. Now, Sir, as for the second statement of the Hon'ble Finance Minister,—of course this was made in the Lower House—we are very grateful too. He said that he would be coming up with fresh proposals for taxation. From those who are big-bellied, by depredations on them I am going to bring out something for your delectation and for your subsistence. The rich people should beware of the steam-roller that the Honb'le Mr. Suhrawardy will put into action before the end of this session. That was his address to the Lower House. "Don't you be disappointed. I am coming up soon with fresh proposals for taxation." Now, Sir, those fresh proposals are intended to touch the people who are placed in a higher position in society by virtue of their wealth, their power or other things. But, Sir, the engineer who has got to deal with the abysmal rush of the Niagras must lay aside the tools good enough for constructing the bridge-water canal. When the situation is one of emergency,—and I say that in Bengal the financial situation is one of emergency, bio-chemic treatment won't do. You require to make some major surgical operation in the body-politic. Therefore, like an able Finance Minister he is coming out with what he is going to impose. As a matter of fact, timidity or nervous hesitancy is hardly a fit attribute for a Finance Minister. No question of loan; tax people. There are people who can pay for the benefit of the less favoured and the poorer ones. That is like a Finance Minister!

Last time, Sir, I spoke about Education. I shall simply draw the attention of the Hon'ble Finance Minister to certain figures in the

Budget. Sir, the Raja Bahadur of Nashipur gave all the credit to the Hon'ble Finance Minister for the pains taken by him in presenting this Budget. I, Sir, am not going to rob Peter to pay Paul. I should say that the Minister must give up some portion of the praise bestowed on him, and I am going to transfer that amount of praise to the officers of the Finance Department for the real trouble they had taken. Now, Sir, the position is this. If the Hon'ble the Finance Minister will please look to the Civil Estimates of the Education Budget he will find—I give him and the other honourable members of this House the figures—that Primary Education claims 33 lakhs out of the total grant under the head "Education" of rupees one crore fifty-seven thousand and odd. Secondary Education also has got the same even-handed justice of Rs. 33 lakhs. Then come Collegiate Education and the University. I am not going to refer to them. Now, if 33 lakhs can be allotted for the purpose of Secondary Education, don't you think that the amount allotted to meet the needs of Primary Education should be trebled at least? On reading the Budget as a whole, you will find that a disproportionately large sum has been given to Collegiate Education to the detriment of Primary Education in this province. And, Sir, if you compare the figures of expenditure on Primary Education in other provinces, you will find that the incidence of cost per head of pupil is the lowest in Bengal, although this is said to be the most advanced province of India. It means that here some sections of the educated people are prospering at the cost of the other sections. It will be for you, Sir, to consider whether or not it requires readjustment. Now, this is the last word that I have to say on Education.

I shall now take up Agriculture. May I remind the Hon'ble Minister for Finance of that most important pronouncement of His Excellency Lord Linlithgow when he said: "Those who govern and those who aspire to govern India must never allow themselves to forget that India's wealth in an overwhelming degree lies in her Agriculture and that upon the welfare of these agriculturists is founded the whole structure of India's economy." The political problems, acute and sometimes baffling as they are, are as dust in the balance weighed against the superior importance of the agricultural emancipation of India. That being so, Sir, even after the release of the Report of the Royal Commission on Agriculture, what is the Agriculture Budget in Bengal? Sir, I shall give you figures for four years. In 1936-37 it was only 10 lakhs and on the inauguration of the Reforms or rather with the advent of Provincial Autonomy, there was an addition of one lakh in 1937-38. In 1938-39 it mounts up to only Rs. 16 lakhs. In 1940-41 it is now 17½ lakhs, that is to say, from 1936 to 1941 you get an increase of only about Rs. 7 lakhs under the head Agriculture. Well, considering the importance of the subject and considering also the grant, you will find that there is a hopeless disparity between the two, that is to say, the ideal is entirely divorced from practice.

Another matter I will ask you to consider. My point is this, that in making allotments for expenditure, the importance of the subject should be considered and accordingly allotments should be made. This principle you have not followed and you are not following.

Then, I come to another matter and that is a very short matter and with this I will finish my remarks, because a word to the wise and able Minister like the present Finance Minister will be quite enough. If I simply point out the way along which he has to go, he will find it out for himself. It is this: I am glad that the Hon'ble the Judicial Minister is also here,—the Judicial Budget is a vicious Budget to say the least of it. We find from the figures supplied that as a matter of fact the court-fees paid in cash amount to 1 crore 74 lakhs, and in stamps 30 lakhs. That means 2 crores 6 lakhs. The expenditure on the entire Administration of Justice is 1 crore and a little more, so that the Government makes a profit of about a crore under the head "Administration of Justice." I would ask the Hon'ble Finance Minister if there is any country in the world where profit is made out of Administration of Justice. As far as we know, justice ought to be given gratis, but here we pay for it. Not only we pay for it, but the Government make one crore out of Administration of Justice. Therefore, I would like to say that two courses are open. One is to reduce the scale of the court-fees. Take just as much as you require for Administration of Justice. I do not insist on that highest ideal that Government must give us justice free. Take the amount which is needed. Reduce the income or set apart this for work of ameliorative or beneficial purposes, for the benefit of the nation-building departments. Set apart this just as you have set apart Rs. 10 lakhs specifically for famine purposes. Set apart that amount as a surplus, and it will go back for the purpose of nation-building departments alone. I might remind the Hon'ble Finance Minister also that when Sir John Simon came to Calcutta and made an investigation in connection with the labours of the Statutory Commission, he was simply amazed to learn that Government in Bengal was going to make a profit out of the Administration of Justice. The cost of litigation is higher than the cost in the other countries. There is the official record, and I would refer the Hon'ble Finance Minister to those papers where it is said that Sir John Simon was simply amazed. Therefore, my submission is that as a matter of fact this is a vicious Budget.

Now, as regards General Administration, the expenditure is so very high that it ought to be reduced. I press for a Retrenchment Committee. Mr. Sarker, instead of constituting a Retrenchment Committee, appointed a Special Officer to consider the Swan Committee's recommendations. A White Paper was placed before us by the Special Officer. I do not know who the gentleman was; he must be a senior civilian. A White Paper was placed in our hands. For ourselves, we can truly and verily say that we are not at all convinced by the report.

When there are so many committees formed in Bengal, as was stated by the Hon'ble Finance Minister, and so many committees are already in progress and are doing their work to satisfy our doubts and suspicions, is it too much to expect that the Government would appoint a Retrenchment Committee consisting of the Leaders of both the Houses, and I should advise also some outside experts to consider the financial position of the Government of Bengal?

Now, there is one other matter to which I must refer before I sit down. The Chair will be pleased to give me five minutes. It is this: In the present-day administration, decentralisation should be given effect to as wide as possible. Instead of doing that, we are having all powers centralised in Calcutta and in the hands of certain administrators. Decentralisation is a boon and centralisation as is being done is also a vicious policy. I would refer to one or two items, viz., augmentation grant to the district boards. We have, as I have already said, 50 thousand workers, trained workers in the persons of the members of the union boards. These workers are about 50 thousand in number. You are not placing any money in their hands. You are placing only Rs. 9½ lakhs at the disposal of the 26 district boards in Bengal for augmentation grants. You are making so many appointments for the personal benefits of some people, but you are not taking any notice of the units of the administration and to that extent you are responsible not only to man but also to God. You are wasting the money which may be measured in terms of human blood. Therefore, I think that the whole thing has to be recast. Dr. Mookerji may be interested to know how the cost of General Administration came to be so high. He has got comparative figures for all the countries and provinces. When the proposal was made that Diarchy should be the form of Government, at that time the Home Department became nervous. They increased the pay of the officers before Diarchy came into force. When all these increments were made, one of the Munsifs ran to my house saying, "Maulvi, have you heard anything about my pay? I was drawing Rs. 300 and from the 1st of April I shall draw Rs. 700." The Executive Government thought that the servants who rendered faithful service should be rewarded and immediately before the introduction of Diarchy in 1907, it was Sir Henry Wheeler's time, I do not remember the date, the pay of the officers were immensely raised and a moiety was granted to the transferred departments. Shrewd observers then remarked that it was done purposely, that is to say, this paltry amount was given to the nation-building departments, so that the Ministers would not be able to show any good work and thereby the superiority of the British administration would make a deeper impression on the minds of the people. That being the case, let us go back to the old days and for that I strongly advocate again and again that a Retrenchment Committee should be formed consisting of the leaders of both the Houses, and with some expert outsiders.

Rai Sahib JATINDRA MOHAN SEN: Mr. President, Sir, I congratulate the Hon'ble the Finance Minister on the fairness and lucidity with which he has presented his first Budget. Since the inauguration of Provincial Autonomy, the Provincial Budget is awaited with a good deal of eagerness and interest. The Provincial Budget gives a picture of the past and present efforts as well as the future efforts to be made by the Government to promote the welfare of the province. It indicates whether the Government have rightly realised the true needs of the province and if they have, whether they have risen to the required height to meet those needs.

Now, if we look to the Budget we are bound to say that its provisions have not come up to our expectations. The present Government are strongly entrenched in power for three years and this is the Budget for the third year. It cannot, therefore, be said that they have had no time to formulate schemes and to proceed on planned basis in the framing of the Budget. The present Budget does not give indication as to how the Government propose to tackle the various major problems which are awaiting solution in their hands. There are touches here and there and my considered view is that a lot of money will be wasted, as has been wasted in previous years, in giving these touches.

The financial position of the province seems to me to be good. The Budget presented to the House a year ago was a deficit Budget. It was estimated that the expenditure would exceed revenue by 87 lakhs but actually the excess expenditure over the revenue will be only 48 lakhs and if some accounting adjustments are made, the deficit will only be 14 lakhs. The deficit will be met from the closing balance. There was a proposal to take a loan of 1 crore to wipe out the deficit of 87 lakhs, but thanks to the growing financial strength due to war and other causes, this loan has not become necessary.

The Hon'ble the Finance Minister has observed in more places than one that he has framed the Budget with caution and that he has not relied on the prospective improvement of the financial position. The war, from all appearances, is likely to last for at least a couple of years if not more. All exporting countries are making huge profits. Bengal has valuable raw materials to export at good prices. So Bengal is bound to make huge profits in the coming years. Why should not then the unexpected income be utilised now for the solution of the many problems which are awaiting solution for dearth of money? A certain percentage may be kept in reserve, but it would not be a sound policy to conserve the whole of it for future emergency. Individuals will take the opportunity and build up various industries and will contribute their income by way of increased taxes when the normal condition will return. The Government are not likely to face any financial difficulty hereafter. My humble suggestion is that this golden opportunity should not be lost.

I have said that the Government have given touches here and there. Let me explain what I mean. Health, Wealth and Education are the three things which go to contribute to the building of a sturdy individual. There is no denying the fact that in these respects, Bengal stands almost lowest in the rung. Provincial Autonomy to my mind would be meaningless if our popular Government did not seriously tackle these problems. I do not say that they are not making honest efforts in this direction, but my regret is that they have not risen to the required height to do the needful. What has been done is too small in comparison with the magnitude of the work still to be done. I take up rural reconstruction to illustrate my point. About 80 per cent. of the people are agriculturists and live in villages. Rural reconstruction programme should include all those items which would go to make the rural people healthy, wealthy and wise. Improved homes to live, drainage, irrigation, eradication of malaria, prevention of epidemics, good drinking-water, improved agriculture, good breed of cattle, cottage industries, schools, gymnasium, libraries, sports, amusements, social gatherings, etc., should be included in the programme. Crores of rupees are required to put such a scheme into success. But what do we find in the Budget? Three lakhs is placed at the disposal of District Officers and 2½ lakhs interspersed under various Budget heads. This 5½ lakhs will be a mere drop in the ocean. The policy of spending money in driblets on a major problem like this should be abandoned. The Government should be fired with imagination first and then make the determination to solve the problem at all costs. The Budget should have been balanced by cutting down all unnecessary expenditures and stopping all waste. The previous speakers have given some indication in this direction. Thus, instead of levying fresh taxation for balancing the Budget, they should take a loan of a crore of rupees or more to bring rural reconstruction an accomplished fact, say, within five years. The present policy of spending in driblets will not complete the work in a hundred years. If taxation be necessary for repayment of the loan with interest, the country will gladly bear the burden.

There is one matter which does not appear clear from the Budget Statement or from the Budget Memorandum and the Budget Estimates. The Hon'ble Finance Minister has brought certain securities within the public accounts, which were hitherto held outside these accounts. The nature of these securities are nowhere mentioned and no reason has been given why they have been brought within the public accounts now. We are not in a position to judge the merits or demerits of this action. I hope the Hon'ble Finance Minister will kindly enlighten us on the point.

Begum HAMIDA MOMIN: Sir, in speaking on the Budget for the year 1940-41, I shall confine myself mainly to the Education Budget.

Sir, the Hon'ble Finance Minister in his speech has said that in some cases the items of expenditure on boys' and girls' education have been shown separately, which was not done in the past. Sir, I appreciate this, but there are many important items in which the expenditure for boys' and girls' education have not been shown separately. From the proportion allotted to girls in other items, I apprehended that it is not intended to give adequate funds for the benefit of the girls. The sum of 35 lakhs budgeted for Primary Education has been lumped together for both boys and girls, and it is not known how much is intended for boys and how much for girls.

Sir, Primary Education is of vital importance so far as girls are concerned. All over the country the demand for girls' education is very much on the increase, and the Hon'ble Minister in charge of Education has times without number stressed the necessity of providing facilities for the advancement of girls' education, but it is a matter of great disappointment to find that there is no indication in the Budget to show his desire to translate this intention into actual performance. Sir, we find from the last Quinquennial Report of the Director of Public Instruction that there has been no appreciable progress in the primary education of girls. On the other hand, the wastage has been appalling. Sir, for the information of the House may I quote from the Report to which I have referred? It runs as follows:—

"Of the number of girls in the primary stage, as many as 395,478 were Muslims and 288,809 were Hindus; but the number of Muslim girls in the upper primary stage was only 7,027, while the number of Hindu girls was 19,599." These figures are significant; they show that there is a tremendous "wastage" and that the wastage is much greater in the case of the Muslim pupils.

For every 86 boys who are in the lowest class of the primary schools, there are only 10 boys in the top class of the primary stage. The figures for girls are even more depressing: for every 453 girls in the lowest primary class there are only 10 in the highest class.

For every 149 Muslim boys and 1,333 Muslim girls in the lowest class of the primary stage, there are now only 10 Muslim boys and 10 Muslim girls in Class V. In the case of Hindus, there were 10 boys and 10 girls in Class V for every 52 boys and 225 girls in the lowest class.

The wastage, as has been observed, is appalling. Permanent literacy cannot possibly be obtained until a pupil has completed the primary stage of education and many educationists doubt if even the completion of the full primary stage would give permanent literacy to a boy or a girl. A great deal of money that is being expended at present on primary education is undoubtedly being wasted and brings no return.

The tables at the end of the chapter will show that though there are as many as 2,664,506 pupils in the primary stage, there are only 131,848 in the highest primary class. In 1933, there were, in the lowest primary class 416,624 girls and 985,865 boys but in the top classes, the numbers have dwindled to only 121,208 boys and 10,640 girls in 1937. The proportion of pupils in Class V to the pupils in Class I is 1 : 8 :6 in the case of boys and 1 : 45 :3 in the case of girls. In the case of Muslim boys the proportion is 1 : 14 :9 and 1 : 133 :3 in the case of girls. So roughly only one out of 15 Muslim boys and one out of 133 Muslim girls completed the full primary course.

Sir, what is the reason for this wastage and what steps have been taken by the department to counteract this wastage? The reason is not that the girls or their parents do not wish to continue their study further. We know that the girls, when they once enter a school are very keen to continue their studies if proper facilities are given. Nowadays parents are also very anxious to educate their daughters properly. Why then this falling off?

It may be said that early marriage of girls is the cause. This may have been in the past, but it is not so now.

Sir, the main cause of this is want of trained women teachers, and it is this defect which requires remedy. The girls do not mind attending schools run by Pandits or Maulvis or even a mixed school up to the primary stage, i.e., Class III. But after this the parents do not allow them to continue in a school which is not run by women teachers, and they either lapse into illiteracy or continue in an irregular manner at home. What they really do is that they read the discarded books of their elder brothers and advance in reading, whereas other subjects are entirely neglected, with the result that, later on when they want to join a high school or a training institution, they cannot pass the admission test and are found much below the standard. This we have found particularly in the case of girls from the moffussil who apply for admission in the Training Schools for Teachers.

Sir, it is very disappointing to find that, in spite of repeated demands from all quarters, nothing has been done to train a larger number of women teachers. The amount budgeted for training schools for mistresses is the same as in previous years and no additional sum has been allotted for this purpose—although an additional sum of 2 lakhs has been allotted for the training of teachers. With the exception of Rs. 1,000, the whole amount is for the training of masters.

From this it is evident that the officers who are primarily responsible for girls' education are either indifferent to the vital needs of the country or are not competent to be in charge of this important branch of education. I am sure if the Inspectresses of Schools, both of East and West Bengal, had thought out any schemes of improvement in this direction, Government could certainly have given effect to it. I

am afraid, Sir, that they are only marking time and are making no effort to remove the obstacles in the way of advancement of the education of girls. In this connection, I would like to draw the attention of the Government to the very inadequate provision made for Adult Education for which only Rs. 13,000 has been provided. Here again, the needs of women are greater than that of men and, unless you give some sort of education to the mothers, it is futile to expect much progress in the education of boys in the future.

Sir, I would like to make a brief reference to the Medical Budget. The grants to mofussil and suburban hospitals is very inadequate. I do not grudge the more generous expenditure on the hospitals in Calcutta which are intended to be the ideals to other hospitals. At the same time the mofussil and suburban hospitals should not be starved as they supply the needs of the largest number. Apart from this, Sir, the inadequate provision in these hospitals compel the people (*i.e.*, those who can afford) to flock to Calcutta hospitals for medical help and the result is that all the Calcutta hospitals are obliged to work at an abnormal condition almost throughout the year. This is neither desirable for the patients nor for the workers. Even with this state of things in the Calcutta hospitals, the poorer people in the suburban and mofussil areas are practically left to their lot. And even with this state of things in Calcutta hospitals a large section of the population in the mofussil are left to suffer without proper medical aid within their reach or resources. It is therefore desirable, Sir, that Government will take into consideration the deserving cause of these suburban and mofussil hospitals which exist for the poor. In this connection, I would like to point out that the allotment of Rs. 4,500 only to the Prince Gholam Muhammad Charitable Dispensary at Tollygunge which caters for a very large number of poor people is very inadequate, and I hope that this sum is only a forerunner of what is to come in the future.

Alhadj Khan Bahadur SHAIKH MUHAMMAD JAN: Sir, in the first place, I join my honourable friend, Khan Bahadur Abdul Karim, in offering my sincere condolences to the Hon'ble Mr. Suhrawardy on the sad death of his only son.

As regards the Budget, I think enough has been said by honourable members by way of criticism or encomiums and there is nothing left for me to say anything this way or that. But, Sir, I will be failing in my duty if I do not take this opportunity of congratulating the Hon'ble Shaheed Suhrawardy for yet another victory scored by him in the political field of Bengal. Of all members comprising the present Council of Ministers, he is the only Minister of importance who had occupied all important positions which became vacant due to the resignation of other Ministers. Government will not find any fit person or persons to take their places, and he is the only fit person

that they could always find. Neither among the all-Bengal eleven nor from the Assembly nor from this Upper Chamber could they find a more suitable person for this important portfolio than the Hon'ble Mr. Suhrawardy. Sir, the Upper Chamber remains unrepresented since the inauguration of Provincial Autonomy in Bengal. But, Sir, whatever other successes the Hon'ble Mr. Suhrawardy might have achieved elsewhere, he cannot be regarded as a very successful Finance Minister of Bengal.

In the first place, unfortunately for him as well as for this Presidency, his Budget is a deficit Budget. And according to him, he has no other alternative but to fall back upon the meagre reserve of this province, and thus to balance the Budget.

In the second place, his proposals in relation to nation-building departments are very poor in their outlook, and they do fall short of much of the expectation on this side of the House who are the staunchest supporters of the Government. Therefore, Sir, they cannot solve the economic problem of Bengal. In my humble opinion, without financial ingenuity and business foresight and above all, without the creation of an atmosphere of good-will and co-operation between the different communities, Bengal cannot get out of the financial rut into which it has fallen. In the Budget which has been presented, once more the same old melancholy tale has been repeated which we have been accustomed to hear for the last three years—that we are living beyond our means and funds are not available for compulsory free primary education in Bengal, and so on and so forth. But, Sir, it is rather sad that when this most wise economic principle "cut your coat according to your cloth" is very rigidly followed in regard to the nation-building departments, the same principle is observed more in the breach than in practice in other departments. Therefore, this year the cost of General Administration has tremendously increased and no efforts have so far been made to reduce the expenditure on Indian Civil Service which is taking away the lion's share of the Budget. As popular Government is very costly, the cost of administration in Bengal has particularly increased due to handsome salaries drawn by the Hon'ble Ministers and the very high allowances paid to three hundred and odd members of both the Chambers and the extensive propaganda which has been taken up by Government. As no other means of income has been devised by Government, the burden of this extra expenditure has fallen on the shoulders of the poor people. As it is, the nation-building departments are being starved. In fact, in my humble opinion, without any disrespect, I may say that in the Budget no comprehensive scheme has been formulated by the Government for Education, Sanitation or Irrigation in Bengal, and the result of this will be that the teeming millions at the end of this year will remain as ill-educated, ill-fed and ill-housed and malaria-stricken as they are at the present moment. Sir, the reasons for such gross inactivity

and for the wait-and-see policy of the Government are not far to seek. As the present Government depends upon unnatural coalition of parties which are diametrically opposed to one another in their national outlook and economic interests, the result has been that a great community like the Hindus is practically unrepresented in the Cabinet. My statement may appear personal, but I hope you will not deny when I say that the Hon'ble Sir Bijoy Prasad Singh Roy and the Maharaja of Cossimbazar, in spite of their great personalities and social status, are no true representatives of the Hindus. That is one of the reasons why Sir Bijoy Prasad Singh Roy is anxious to get elected to the Upper Chamber. He is afraid that he will not be elected by any constituency in the next general election to the Assembly.

However, what I wish to impress upon this House is that any scheme sponsored by the Government and supported by these Hindu Ministers can never find favour with even a fraction of Hindu population of Bengal and, therefore, all efforts, however sincere and genuine they might be, cannot be successful unless the two communities come to see eye to eye with one another and take their due share in the administration of the province. In the words of Sir N. N. Sircar, there is no hope for this province unless Hindus and Mussalmans of Bengal can compose their differences, and I would add compose immediately before it is too late.

I hope that the talks going on between the leaders of the two communities will be successful inasmuch as common plan will be chalked out acceptable to the majority of the people of Bengal both Hindus and Mussalmans, and thereby not only the most crushing burden of civil administration will be reduced, but new resources will also be tapped to the benefit of the people of Bengal which will revolutionize the whole economic outlook of this province, and this land of ours will be flowing with milk and honey, as is so often described by the poets. It is quite possible that genuine collaboration between the Hindus and Mussalmans of Bengal will be followed by close unity between the two communities in other provinces of India and the words of the late Mr. Gokhale, "What Bengal thinks to-day, India will think to-morrow" will come out true even to-day.

Khan Bahadur M. NAZIRUDDIN AHMAD: From different parts of the House general comments have been made on the Budget and I think at this late hour of the day it is superfluous on my part to repeat them.

I should remind the Hon'ble Finance Minister that some time ago Government appointed a Finance Committee. I am sorry to say that the Committee was never called and it never met. Much of the time and trouble of the Finance Minister in connection with the points that have been raised in the House would have been saved if the Committee was called and consulted. Many honourable members from

different parts of the House have asked for big sums for big schemes, and I think it would be difficult for the Finance Minister to meet those big claims. I have, therefore, chosen to submit before him a very small claim. This is merely a repetition of the claim which I made in the year 1938. I then asked the then Finance Minister to provide the Burdwan Judge's Court building with a latrine. It is a very small prayer, and I believe with a little blessing from the Finance Department it can easily be met. At that time, I submitted certain remarks and attempted to lay before the House some of the difficulties which the lawyers in Burdwan were experiencing and I cannot do better than to repeat them for consideration of the House. With your permission, Sir, I would read what I said in February, 1938, just two years ago:—

"One of my suggestions is about a very trifling matter, and it would be very easy to give effect to it. I desire that a latrine be provided in the District Judge's Court building at Burdwan. This court building is one of the most magnificent in the province. It is an architectural beauty and stands in splendid surroundings. It was erected at a huge cost, possibly 3 lakhs, in 1922, and the then Governor, Lord Lytton, personally went there to open it. But I am sorry to say that up to this time no latrine has been provided therein. The difficulty felt by lawyers and litigants can be better imagined than described. Lawyers though we are, we also feel the call of Nature like other human beings. How the members of the legal profession relieve themselves in this respect cannot be properly described in parliamentary language. Well, all that I can say is that old and venerable trees standing upon the ground since the days of the Permanent Settlement are being subjected to the grossest indignities by eminent lawyers and tenacious litigants with a degree of unconcern which have amazed many a passer-by. One of the most eminent European counsel of Calcutta, an ex-Judge of the High Court, once went to Burdwan to conduct a case, and as a human being felt the urge of Nature. He searched for a suitable place for his relief, but could not find any. His call being a call of Nature took precedence over all other calls, and he had to leave the court in a poor hackney carriage and drive a mile to the railway station, the nearest place where he could relieve himself!"

Mr. PRESIDENT: Order, order. Is it necessary to go into all these details? I think the matter has been sufficiently brought to the notice of the House.

Khan Bahadur M. NAZIRUDDIN AHMAD: I have only one sentence more to complete the quotation.

"The famished horses which dragged the carriage ran a fierce race, and it is reported that he reached his destination just before it was too late!"

That was in 1938 and to-day we are in 1940, but nothing has been done to relieve the lawyers in this respect. From my personal experience also, I can say that my own experience has not been happier than that of the senior Counsel and an ex-Judge of the Calcutta High Court.

Dr. RADHA KUMUD MOOKERJI: On a point of order, Sir. May I suggest that the unedifying statement to which we are being treated might not find a place in the proceedings?

Mr. PRESIDENT: Demands of Nature are not to be considered as unedifying.

Honourable members must remember that the Finance Minister must be given 45 minutes at least to reply to the points raised, and I wish that the members should conclude their speeches as early as possible.

Khan Bahadur M. NAZIRUDDIN AHMAD: Sir, the matter is very important from the point of the people of Burdwan. But I will be short.

Mr. PRESIDENT: Has not the matter been sufficiently stressed?

Khan Bahadur M. NAZIRUDDIN AHMAD: I believe so. I hope that the Finance Minister would take pity on the lawyers and litigants of Burdwan and do something for them. A couple of thousand rupees will, I think, be enough for the purpose and this can be easily provided.

Rai Bahadur KESHAB CHANDRA BANERJEE: In rising to speak on the Budget one has to bid good-bye to that spirit of optimism by which one was actuated at the inauguration of the new Constitution in April, 1937, transferring to popular control the powers which were formerly exercised by a bureaucratic Government. The introduction of Provincial Autonomy, it was thought, would usher in a new era of peace and progress and place Bengal on the high road to economic prosperity which is so essential for the successful administration of the province. But, Sir, the high hopes entertained by the people have been dashed to the ground. This is the third Budget which has been presented to us by the Finance Minister, but we are sorely disappointed at the absence of any well-considered loan for the amelioration of the condition of the people from the educational, sanitary and public health points of view. It is like its two predecessors, a political Budget bereft of foresight and statesmanship and aimed principally at serving the ends of party politics; but we cannot reasonably find fault with the present Finance Minister, who is more an object of sympathy than criticism for the fresh burden imposed upon him of nursing a posthumous child.

Sir, I had no intention of participating in the Budget discussion, but I find I should be failing in my duty if I did not draw the attention of the Government to a notable omission. I am referring to the Bengal Sanskrit Association. A Committee was appointed by Government in their Resolution (Education Department Resolution) No. 3851-Edn., dated the 7th December, 1936, and in Notification No. 61—Education, dated the 5th January, 1937, to enquire into and report upon—

(1) the control and organisation of the Bengal Sanskrit Association,

(2) its jurisdiction, and

(3) its examination system.

The Committee after protracted deliberations submitted their report on the 31st March, 1938. So it took the Committee nearly 15 months to conclude their labours. It is now full two years that the report has been before the Government, and yet the Hon'ble Minister in reply to a question asked by my friend Rai Bahadur Brojendra Mohan Moitra on the 3rd January last stated that the report was under the consideration of Government. The public demand for the separation of the dual functions of the Principal of the Sanskrit College and the Secretary of the Bengal Sanskrit Association still remains unfulfilled. Two years are about to elapse and we are to wait in the fond hope that the long pending scheme will materialise in the near future. The recommendations of the Committee which, it is understood, are of a varied nature, are calculated to improve the present state of affairs considerably, but unfortunately the Government are sitting tight on them. The Committee favoured separation as an immediate necessity to end the present imbroglio arising out of constant friction between the Brahmin Pandits and the Secretary Dr. S. N. Das Gupta.

The Enquiry Committee were of opinion that the Bengal Sanskrit Association should be made an autonomous body with full control over its income and expenditure and with powers to make its own rules and regulations within the framework of the Constitution. The additional cost to Government for such improvement cannot exceed Rs. 10,000 per annum. It is to be regretted that Government are indifferent in this vital matter and regard this paltry sum as too big for an important institution like the Sanskrit Association, which is in charge of Sanskritic education in the province of Bengal.

Sir, as the time at my disposal is limited, I shall not dilate further on this matter, but I hope that the Hon'ble the Finance Minister will make the necessary provision in the Supplementary Budget, and convey to the Minister in charge of the Education Department the earnest

desire of the Hindu members of this House to give effect to the same from the 1st April, 1940, and thereby show that he is not indifferent to Hindu education and culture.

The Hon'ble Mr. H. S. SUHRAWARDY: Mr. President, Sir, may I offer to those honourable members of the House who have tendered to me their sympathy my deepest gratitude? I am grateful to them indeed for their very kind words.

Regarding the Budget itself, Sir, I appreciate the sentiments of congratulation from one section of the House and commiseration from another section and perhaps, I may make bold to say that no one in this House has been a severer critic of the Budget than myself. The financial picture which I have placed before the House is most disappointing and it is impossible for any Government to fulfil its obligations to the people of this province with the finances in the state in which the Bengal finances are at present. I will dilate on this a little bit later.

Sir, but may I deprecate the attitude which is adopted by some honourable members that Budget discussion on the floor of this House is of little value because they have not the power to vote on the various items? On the other hand, Sir, I feel that the discussions on the floor of this House are more valuable on that very account because, without the power to vote on the various items, they are more apt to offer constructive suggestions to Government than merely destructive criticism. And in this, Sir, I have been especially fortunate because many suggestions have flowed from various parts of the House which we value and which will be separately examined by the department.

Sir, the main deficiency of the Budget happens to be the impoverishment of the province's finances. It is no use criticising Government and saying that there is no well-planned policy in regard to Education or Sanitation or Public Health or Irrigation or any other items, when there is no money to back up that policy with. We have all our plans and we are all seething with plans. The plans have been examined and are in the archives of the Secretariat. But what is the use of those plans when we have not got the money to put them through? We have somehow or other to carry on, and I claim, Sir, that we have carried on fairly well with the means at our disposal. May I point out, Sir, that when we came into office, every single department of Government was impoverished, particularly the nation-building departments? For years all the work had been held up. For years there had been cheeseparing. For years attempts had been made to retrench, which honourable members have not apparently realized when they call upon this Government to retrench further. We had in the Cabinet one of the most careful members that it has been the good fortune of Bengal to have, one of the most careful of Finance Members, who was ever

watchful of wasteful expenditure and was most anxious within the powers and the limits of the Constitution to curtail expenditure. I refer to Sir John Woodhead who, for some time, was the Governor of this province. And if honourable members had access to the various files which he started in order to find out the avenue of retrenchment, they would be amazed at the pains that he took in order to curtail expenditure.

Sir, the expenditure on General Administration may seem to be a very large slice of the revenues of the province. It is true that it is a very large slice, but it is not a disproportionate slice, if we on the one hand consider that the revenues of the province are much less than what they ought to be and on the other that we have got to administer an area and a population much greater than in any other part of India. In these circumstances, it is necessary that the cost of General Administration must bear a higher proportion in this province than in any other.

Mr. RANAJIT PAL CHOUDHURY: Overhead charges should be smaller.

The Hon'ble Mr. H. S. SUHRAWARDY: I would like once more to point out to this House that we have spared no pains whatsoever in the direction of retrenchment. Khan Bahadur Abdul Karim spoke of an episode in which a jubilant munsif had appeared in the pre-Reform days and exclaimed that his pay had suddenly been doubled, if not more and said that the increase in the administrative costs had gone up—had been deliberately put up by a Government that on the one hand had given Reforms to the people and on the other treated its servants too well.

Now, Sir, even though I have not compared the figures now existing with the figures of pre-Reform days, we have compared the pay of the officials in Bengal with the officials in other parts of India, and I believe that it will come as a surprise to the honourable members of this House to learn that our officers compare most unfavourably in their emoluments and in their prospects with the officers in other provinces. In spite of that, we have revised the scales of pay and are constantly revising the scales of pay downwards with the result that annually there is some retrenchment. Now, Sir, the Khan Bahadur further stated that there ought to be a Retrenchment Committee because he was unable, if I may say so, to follow, to criticise, or to appraise the White Paper produced by the Retrenchment Officer. In order that there may be a Retrenchment Committee appointed by Government, that is most anxious to retrench and is taking all possible steps to do so, may I say that a better case, than a mere general desire, a mere general call for retrenchment, should be made out. I should be most happy if the

honourable Khan Bahadur and other members of this House were to place constructive suggestions before this House or before the Finance Department or before Government regarding retrenchment in certain directions, namely, how there should be retrenchment, in what manner there should be retrenchment. Until that is done, Sir, I am afraid that a Retrenchment Committee groping in the dark will merely add another burden to the finances of the province.

Sir, Dr. Mookerji, touched the pulse of the real condition of our financial stringency. There can be no question, Sir, that we have been badly dealt with even by the Otto Niemeyer Award. If we meet —and I suppose Dr. Mookerji has also met—members of the Legislatures of other provinces,—when we meet the officials of the Government of India and of other provinces, we, who labour under this great financial handicap, are surprised to find that these officials are jealous of what they call the prosperity of Bengal. I have not yet been able to understand, if I may say so, the mentality of other parts of India, who grudge to Bengal even the small iota of justice which has been meted out to it. When we compare, as Dr. Mookerji has compared—we are familiar with those figures—the area and population of Bengal and the income that we have, with the area and population of other provinces and the income which those provinces have, we find that it is impossible to develop further unless we have a larger income. Now, how are we to have this larger income? It can only be in two ways, either by loans or by taxation.

Dr. RADHA KUMUD MOOKERJI: By fighting with the Government of India.

The Hon'ble Mr. H. S. SUHRAWARDY: Of course, we are going to fight and we are continuing to fight.

Honourable members may be aware that at present the Otto Niemeyer Award itself is going to be modified. What will be the effect of that modification is not yet apparent. But apart from the validity of our contention that we ought to have some share in the increased income of the railways, I think we can legitimately claim that, so far as the jute export duty is concerned, it should be wholly ours or at any rate distributed amongst the jute-growing provinces. (Mr. RANAJIT PAL CHOUDHURY: "Hear! hear!"), and that we should get a larger share in the proportion of income-tax. Sir, these are matters with regard to which there can be no difference of opinion between the Government and the public, because actually we are starved. One of the reasons why I stressed that point so much in my Budget speech, which has raised some controversies on the extent of the gloominess of the picture which I have painted, is to bring home to all those concerned that the finances of this province are in a very bad

state,—something which others do not appreciate. Is it possible for any Government to carry on drawing continuously on its closing balances? Is it possible for any Government to function if its closing balance is only Rs. 24 lakhs above the minimum which it must keep. We must have more money, and we must tap our resources. Certainly, all of us feel aggrieved at the manner in which Bengal has always been treated in the financial settlements, and I think that all of us being of the same mind, our representations may perhaps carry some weight.

May I, however, in proceeding point out exactly what we have done with the increased income that has been bestowed on this province under the Otto Niemeyer Award, and why that income has never been sufficient for us to take up any large scale schemes? For instance, we hear from all parts of the House of the demand that we should introduce free and compulsory primary education. This requires a recurring expenditure which is put down differently as from Rs. 3 to 5 crores. Where is this money to come from? We have had merely an increase of Rs. 88 lakhs, that is to say the difference between the pre-Reform expenditure and the present expenditure. We have had only Rs. 88 lakhs to distribute amongst all these various nation-building heads. Suppose, we want to take up the scheme of water-supply, and try to solve the entire water-supply problem of the province at one stroke. Rs. 88 lakhs will not do it. If we want to introduce in the realm of medical and public health, rural health units, Rs. 88 lakhs will not do it. All these are big schemes and for that we must have money. As I pointed out a little bit earlier that when we came into office every single department was starved and the expenditure in every department had to be cut down to the minimum and the administiation was being merely carried on. The money at our disposal has just been sufficient to some extent for revitalising the departments. The figures showing what we have done and how we have prepared a proper jumping ground from which to take up bigger schemes will make this apparent to the honourable members of this House.

The total revenue receipts in 1936-37 were Rs. 12 lakhs 14 thousand. This includes, of course, the money which we had to borrow or which we had to draw upon from the Government of India in order to meet our deficit. This year we have budgeted for Rs. 13 crores 97 lakhs. This includes 68 lakhs as adaptation receipts. Therefore the actual income that we have budgeted for is Rs. 13·29 lakhs. We thus see that we have Rs. 1·15 lakhs more than the 1936-37 Budget. Before the Otto Niemeyer Award, the Government had to pay to the Central Government Rs. 33 lakhs in interest which has been wiped out. Therefore, we have Rs. 1·48 lakhs in excess. Now out of this, we have to deduct Rs. 15 lakhs as the cost of Reforms. It goes for the expenditure of this House and of the Bengal Legislative Assembly. That leaves Rs. 1·13 lakhs. We have to deduct from that the increased expenditure

on the road development account for which there is another fund and that is Rs. 16 lakhs and Rs. 7 lakhs under extraordinary receipts which represent the recoveries of war charges; monies which we have spent and which we will get back from the Government of India. Leaving 1·10 lakhs from which we deduct the pensionary charges of Rs. 22 lakhs which is an unavoidable expenditure, we have a balance of Rs. 88 lakhs. Let us see where this money has gone. It has not gone to General Administration as the honourable members think. The apparent increase in General Administration is due to the fact that the cost of various nation-building departments are debited under that head and the sum of Rs. 3 lakhs which is set apart for rural reconstruction is also under that head.

Now, Sir, most of that increased revenue of ours has gone to the department of Education which is responsible for the increase of Rs. 35·18 thousand, this year over the 1936-37 expenditure. That represents about 40 per cent. of the increase. Now, what would you say? Would you say that we should not spend this money on education, and should continue to spend according to the previous scale? We are spending about Rs. 3·72 thousand for training teachers for primary schools. We have increased the grant to non-Government madrassahs; that accounts for Rs. 1·70 thousand. Rs. 2·48 thousand represents additional provision for scholarships. Then, there are the recurring and non-recurring grants of 1 lakh 50 thousands and 1 lakh 75,000 respectively given for youth welfare which is doing so much good work and which, we hope, will be returned to the nation a hundredfold. For improvement of primary education, we have allotted Rs. 5 lakhs. This is considered by some to be too little. Perhaps it is. Where I am talking of Rs. 3 to 5 crores, Rs. 5 lakhs is nothing, but where are you going to get the money?

Dr. RADHA KUMUD MOOKERJI: You have got to borrow.

The Hon'ble Mr. H. S. SUHRAWARDY: We can hardly borrow for a department from which there is no return.

A loan really ought to be taken by Government for expenditure on those departments from which there is a return and from which you can provide a sinking fund. For instance, loans for Irrigation purposes or for schemes under the Development Act or for loans to agriculturists and so on may be floated. That would certainly relieve some money which may be spent on other departments which are spending departments. I am prepared to say this, that this sum of Rs. 5 lakhs which has been given this year in the Budget may be considered to be a token amount. It depends upon the amount that we can actually spend, depends on the schemes and the requirements of those districts where the scheme will come into operation. It is not for me either to

agree or to disagree with the suggestion thrown out by Khan Bahadur Saiyed Muazzamuddin Hossain to the effect that we should go in for a more modest scheme for primary education. That is a matter for the Education Department, but so long as I am in charge of the finances of the province, I would welcome any such scheme which is likely to lighten the burden of expenditure.

Rai Sahib INDU BHUSAN SARKER: For youth welfare Rs. 1,15,000 was given last year——

The Hon'ble Mr. H. S. SUHRAWARDY: Yes. There was a non-recurring grant-in-aid of Rs. 1,75,000. This year there is a recurring grant of Rs. 1,50,000, but there is no non-recurring grant.

Then, there are grants-in-aid for non-Government secondary schools for boys—Rs. 1 lakh. There are also grants-in-aid for non-Government secondary schools for girls—Rs. 1 lakh, and also for primary schools for girls—Rs. 58,000. There is a recurring expenditure on the Lady Brabourne College of Rs. 1 lakh. Then there have been grants made to various institutions which are in need of Government patronage like St. Xaxier's College, the Burdwan Raj College, the Dacca University and the Karatia College.

The next large item which has taken a very large slice of this increase is Debt Conciliation which is shown under General Administion. There is an increase of Rs. 22 lakhs. Some honourable gentlemen said that Debt Conciliation has done no good to the people of the province. I most emphatically join issue with him upon the point. We have attended hundreds of meetings and those meetings have been attended by thousands and tens of thousands of persons. I am referring to the village meetings where the rural population had congregated and from no part or corner of such a congregation has this opinion been ever voiced. On the other hand, the poor people of this province are deeply grateful to Government for the work of this department and there is a cry from those parts where the boards have not been established that these boards should soon be established there. When we came into office, we were overwhelmed with petitions from all parts of Bengal for the establishment of boards and we had to establish special boards in subdivisional towns for the purpose of receiving the petitions and, Sir, we shall continue introducing these boards until the position of the poor agriculturists is consolidated and they can stand once more on their feet unburdened with debt. It is said that debt conciliation has been responsible for the drying up of rural credit. To what extent it is responsible or not is a difficult matter to assess because, Sir, rural credit, so far as I remember about the economic condition of this province, had dried up even before the Debt Conciliation Boards were established. It was drying up from

the time the depression started, viz., from 1929, and if to-day the *mahajans* are not prepared to lend money, it is not on account of the Debt Conciliation——

Mr. LALIT CHANDRA DAS: It is exactly the case.

The Hon'ble Mr. H. S. SUHRAWARDY: Perhaps the honourable member does not know or possibly he himself is a big lender! I am talking of the small loans to petty agriculturists and those loans up to Rs. 50 have been excluded from the purview of Debt Conciliation Boards, and they can be advanced by the lender to the agriculturist with every hope of the money being returned. This sum still——

Mr. LALIT CHANDRA DAS: Have you set up any machinery for the realisation of these loans?

The Hon'ble Mr. H. S. SUHRAWARDY: I need not here worry about all those things. We have got the machinery of the certificate procedure, and there is the moral pressure as well. It is possible, Sir, that Debt Conciliation has been instrumental in drying up that part of the rural credit for which the big *mahajans* were responsible. In contrast to this, it has conferred untold benefit on the people of this province.

Rai Sahib INDU BHUSAN SARKER: On a point of information, Sir. Is it a fact that loans taken after the 1st January, 1940, will not come within the purview of the Debt Settlement Boards

The Hon'ble Mr. H. S. SUHRAWARDY: Why should that be? I am not aware of it. Probably the honourable member is referring to the five-year period. The Act, so far as I remember, states that loans contracted five years after the establishment of a Debt Settlement Board in any particular part will be outside the purview of that particular Debt Settlement Board; it does not refer to loans contracted five years after the Act came into operation.

Sir, the third item which has taken a considerable sum of money is Public Health where there is an increase of 13 lakhs and 79 thousand. We have given additional grant for sewerage and drainage schemes of one lakh. The quinine grant has been increased from 2 lakhs 60 thousand to 3 lakhs 60 thousand and now to 5 lakhs. The grant to rural water-supply has also been increased from 2½ lakhs to 7½ lakhs and this, I hope, has conferred and will confer some real benefit on the people. There is also the grant for anti-malarial schemes. Some honourable members have stated that the money allotted for anti-malarial schemes has not been spent. It is true in some measure, but then Government can hardly be blamed for it because these moneys

were expected to be spent on schemes formulated by the local institutions, I mean the District Boards, Local Boards, etc., with the help of Government, and we propose to continue to provide for this, because we think that small schemes taken up all over the province will be of great benefit to the localities, and we want to have money in our Budget in order to meet any requirements that may be put forward. Then Rural Public Health units accounts for Rs. 1,50,000 and Maternity and Child Welfare Centres for Rs. 2,50,000.

Then, Sir, in the Medical Department we have increased the scholarships for Muslim students by Rs. 30,000 recurring, and for the Scheduled Castes by Rs. 17,000 recurring. Subsidies to dispensaries account for Rs. 40,000. Grants to the Jadavpur Tuberculosis Hospital account for Rs. 10,000 recurring, but an honourable member has said that this is not sufficient. We are most anxious that this useful institution should continue to receive the patronage of Government as well as of the people of the province. It is a most deserving institution and we do hope, Sir, that if honourable members feel that this institution requires the continued patronage of this Government they, too, will use all their influence with the public of this province to fill its coffers. We have also given this year a non-recurring grant to the Jadavpur Tuberculosis Hospital of Rs. 1,36,000. Three lakhs has been granted for the improvement of sadar hospitals and subdivisional hospitals. This, I think, disposes of, to some extent, the charge made by Begum Hamida Momin that no money had been spent on mufassal and subdivisional hospitals. May I further point out, Sir, that so far as the mufassal and subdivisional hospitals are concerned, their expenses are partly met by local bodies, I mean the Municipalities and the District Boards, and consequently so much money is not required from Government?

Rai Sahib INDU BHUSAN SARKER: On a point of information, Sir, regarding the grant to the Jadavpur Hospital. May I refer to page 107 of the Budget——

Mr. PRESIDENT: Order, order. Yes, Mr. Suhrawardy.

The Hon'ble Mr. H. S. SUHRAWARDY: I am certain. We have given the Jadavpur Tuberculosis Hospital Rs. 10,000 recurring. We have given increased grants to the Calcutta Hospital Nurses' Association of Rs. 1,74,000, and Rs. 2,50,000 to the Chittaranjan Seva Sadan, and Rs. 2,65,000 has been allotted to the Lady Dufferin Victoria Hospital in the new Budget. There have similarly been increase under the heads Medical Rs. 6,67,000, Agriculture Rs. 6,91,000, Co-operation Rs. 4,11,000, Industries Rs. 4,70,000, Veterinary Rs. 1,89,000, and in other spheres. These, Sir, are in the nation-building departments.

Now, Sir, this is the history of how we have spent the money, and I think that at the present moment we are in a position to embark on larger schemes.

Sir, I was unable to follow the remark of some honourable members such as Mr. Humayun Kabir, that there is no financial stringency in Bengal, because the prices of commodities have gone up and that there is an increase in industries. What has that got to do with the finances of the province, I am unable to follow, unless we take advantage of these by increased taxation? It only means that our loans will come back and hence, Sir, we have provided for the return of those loans. So, Sir, until we increase our income, I am afraid, I shall have to continue to be pessimistic.

Sir, there is one further general remark which I wish to make for the attention of the honourable members. I do hope that in their minds they will make a clear-cut difference between a capital grant and a recurring grant. Some criticism has been made against the capital grant that we have provided for the Bratachari Movement. Sir, I do not wish here to dilate upon the excellences or otherwise of that movement. The grant which is provided is a lump grant, once and for all, to enable them to run a permanent camp. I am hoping, I am visualizing, Sir, that the camp to which teachers from all parts of Bengal will come for the purpose of training themselves and learning how to teach others, will also be useful as a rural reconstruction camp which these teachers from the mufassil may be able to utilise, and we may, in our turn, be able to utilise their services for rural reconstruction work. That, of course, is a different thing, Sir. But surprisingly enough, I hear members say that instead of giving it to the Bratachari Movement I should have allotted the amount for Primary Education, or, instead of giving it to the Bratachari Movement it should have been allotted to Agriculture. But moneys spent on these two departments are of a recurring nature. I do submit, Sir, that there is no parallel between the one and the other. Non-recurring items cannot be compared with recurring expenditure.

Now, Sir, it has been said that no money has been granted to the *Viswa Bharati*. May I, Sir, refer the honourable members to, I think, page 282 of the Budget, where you will find that Rs. 25,000 has been allotted this year also for the *Viswa Bharati* and perhaps I may inform the honourable members that the last year's grant has since been released by the Education Department. I hope, Sir, that the grievance of those honourable members has disappeared.

Dr. RADHA KUMUD MOOKERJI: Is it to be a recurring grant?

The Hon'ble Mr. H. S. SUHRAWARDY: This year it has been allotted. Whether it will be paid or not, I can't say. It all depends

upon the will of the Legislature. I do not wish to voice my own opinion in this respect which may be against the will of the Legislature. But so far as Government are concerned, we have made this provision and if we at any time make a recurring grant, that will depend very much upon any enquiry which Government may make as regards the manner in which this amount is to be spent.

Similarly, Sir, there are so many items to which I could have referred. But, Sir, I come to the modest—some may consider it immodest—proposal of Khan Bahadur Naziruddin Ahmad that Rs. 2,000 should be provided for a latrine in the Burdwan Collectorate. We have got great regard for the Khan Bahadur who has paid a very great compliment to the Budget by asking only for such a small item, and I wish to utilise his demand as a peg to hang my remarks upon. Whether it is Rs. 2,000 or Rs. 20,000 or Rs. 50,000 it does not depend upon the generosity of the Government or of the Finance Department, but on the urgency of the schemes. I claim, Sir, that every single sum of money that we provide in the Budget is allotted after very great scrutiny and after we are satisfied that there is a proper scheme or that it is going to benefit the province as a whole. Although the amount of Rs. 2,000 for a latrine in the Burdwan Collectorate may appear to be a very small sum, I don't think Government will at all be disposed to do grant it unless the honourable member can make out a very satisfactory case.

Sir, before I sit down I do wish to refer to an item in which I personally am deeply interested, namely, the problem of rural credit the necessity for which has been voiced from various parts of the House. There are protagonists of various theories regarding rural credit. Rural credit, I may say, is of various kinds. There is the long-term rural credit which is provided by the Land Mortgage Banks established by Government, or by Joint Stock Companies or by banks in general. Then there is the short-term rural credit. Now for these there are the co-operative societies. At any rate,, Sir, the new policy of the Co-operative Societies is to lend money on short-term credit. But what will happen to those persons who have not come within the jurisdiction of a Co-operative Society? Khan Bahadur Muazzamuddin Hosain says that Co-operative Societies should be abolished as the debtor has to pay a larger sum as interest than if Government directly paid the money to the agriculturist without the intervention of the Provincial and the Central Banks and the primary Societies. And then again, Sir, where there are no Co-operative Societies, Government ought to come to the rescue of the agriculturists. Now, Sir, this raises a very important issue as to whether Government should displace all rural credit institutions such as the *mahajans*, the Co-operative Societies, the Banks, which it should be our policy to encourage, or whether Government should regulate these. Now, Sir, I am not satisfied that if Government took upon itself the burden of advancing money to the

agriculturists, it would be a satisfactory solution of the problem, apart from the question whether Government ought to take it up or not. This is a question which requires grave examination. Sir, I do hope that in the course of this year we may be able to place before the Legislature some schemes regarding rural credit. But it is a question which cannot be decided merely on theory or on first impressions. This is a question which requires the consideration, I believe, of experts in this line and if we ever take it up seriously, it can only be done if we get the benefit of expert opinion in this correction.

The Khan Bahadur in giving his constructive suggestions went one step further than we have ever dreamt of going, namely, that he wishes to saddle the Government with the cost of maintenance of the water-supply of the province. He desires that Government should not only solve the problem of the water-supply of the province with its own money and that the local bodies like the District Board, Local Boards and the Union Boards should be relieved of that responsibility; but also that Government should take upon itself the burden of maintaining it by means of an Insurance Fund or a Maintenance Fund to meet the recurring cost. This is a thing which I consider to be a deliberate shirking of the duties of the local bodies, if they wish to saddle even the cost of maintenance of the water-supply scheme on Government. I hope, Sir, that we shall not hear any more of it. I think it will be a very great step if Government can be induced to take the burden of the capital expenditure for water-supply, but the cost of maintenance on any account must be on the local bodies.

I have spoken about taxation, because I feel that without taxation we cannot advance. There are various schemes which I can place before the House and which, as I have said, we have considered, but we see that it is no use talking about progress until we are able to increase our income. I desire to assure this House that Government will not go in for any scheme of taxation unless, firstly, we have the schemes upon which to spend the money raised and, secondly, the money that we will raise by taxation will be spent on nation-building departments and for the furtherance of the prosperity of the province.

At the same time, I should like to advise the honourable members that as a general rule, it is not possible to allot monies derived from one particular head for specific items. As for instance, one honourable member has suggested that money derived from the jute export duty should be set apart for Primary Education. I beg to join issue with them, and ask them first to consider the financial position of the province. How can that be done? How can money raised from one particular source be set apart as long as the financial position of the province continues in this state. We have got a deficit of Rs. 57 lakhs. We are getting something more than Rs. 2 crores from the jute export

duty allotted to this province. If you ask us to set apart Rs. 2 crores for primary education, we have got to find this 2 crores from some other source. Practically, we have come to this position that we cannot set apart any money which goes into the general pool, but so far as fresh taxation is concerned, I am prepared to say that we shall make every possible endeavour to see that the money is spent on prepared schemes and on nation-building departments. I am certain also that the honourable members will not grudge it if it goes up to make up a deficit which has been brought about by additional expenditure on nation-building departments. That is a point which the honourable members seem to forget when they say that taxation ought not to be levied for the purpose of making up a deficit. Suppose that we do not spend money on those various items which we have recommended, there would be no deficit at all. Only those departments would be starved. It would be a different matter if you could show that the deficit is due not to increased exepnditure on the nation-building departments, but on increased expenditure in other directions. If I can show that the increased expenditure on the nation-building departments is more than the deficit, then surely I would be entitled to wipe out the deficit by means of taxation. (A VOICE: "Cut your coat according to your cloth".) And how? The hand will fall heavily on the nation-building departments first. They cannot fall heavily on those departments which are essential for the maintenance of Government itself. Suppose we reduce the Police. You yourself will turn round and say that the number of Police is much less here than in other provinces. (Cries of "No! no!") It is less, and the cost is less per area and per population in this province than in other provinces.

Dr. RADHA KUMUD MOOKERJI: Provincialise the service.

The Hon'ble Mr. H. S. SUHRAWARDY: Can you do it within the ambit of the Constitution as it exists? It is no use saying cut down the pay of the Indian Civil Service or provincialise the service. We have got to meet our expenditure within our limits. When we can transcend it, the better for us. Then money that will be released will be spent on development of those departments or may be spent in releasing taxtion, but until that time comes, we have got to carry on with the revenue income that we have under the scheme of the Government of India Act and with those limitations that have been imposed upon us.

Before I sit down, I desire to express my deep appreciation of the speeches delivered by the honourable members and the constructive criticisms by which they have benefited us.

Mr. PRESIDENT: The Council stands adjourned till 2-15 p.m. on Thursday, the 29th February, 1940.

Adjournment.

The Council then adjourned till 2-15 p.m. on Thursday, the 29th February, 1940.

Members absent.

The following members were absent from the meeting held on the 27th February, 1940:—

(1) Mr. Nur Ahmed.
(2) Dr. Arabinda Barua.
(3) Mr. Moazzemali Chowdhury.
(4) Mr. Humayun Reza Chowdhury.
(5) Mr. Kamini Kumar Dutta.
(6) Khan Bahadur S. Fazal Ellahi.
(7) Nawabzada Kamruddin Haider.
(8) Mr. Mohamed Hossain.
(9) Khan Bahadur Syed Muhammad Ghaziul Huq.
(10) Khan Bahadur Maulvi Muhammad Ibrahim.
(11) Maulana Muhammad Akram Khan.
(12) Mr. H. G. G. MacKay.
(13) Rai Bahadur Satis Chandra Mukherji.
(14) Khan Bahadur Ataur Rahman.
(15) Mr. J. B. Ross.
(16) Mr. Sachindra Narayan Sanyal.
(17) Mr. W. F. Scott-Kerr.
(18) Khan Bahadur M. Shamsuzzoha.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Buildings, Calcutta, on Thursday, the 29th February, 1940, at 2-15 p.m. being the seventh day of the First Session, pursuant to section 62(2) (*a*) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Education cess.

37. Mr. RANAJIT PAL CHOUDHURY: (*a*) Is the Hon'ble Minister in charge of the Education Department aware that the imposition of the education cess has been operating harshly on the people in general in the countryside where it is being levied?

(*b*) Is the Government further aware that the frequent failure of crops on account of flood and other natural causes are accentuating the hardships of the people to pay the tax?

(*c*) Does the Hon'ble Minister propose to suspend the realisation of this cess in districts where economic distress prevails?

(*d*) If not, why not?

MINISTER in charge of the EDUCATION DEPARTMENT (the Hon'ble Mr. A. K. Fazlul Huq): (*a*) and (*b*) No.

(*c*) and (*d*) In the districts in which education cess is at present being realised, no sufficient economic distress is prevalent to justify the suspension of cess, but District Magistrates have been given discretion to grant remission in individual cases on account of hardship.

Mr. RANAJIT PAL CHOUDHURY: When such a large amount of agricultural and other loans had to be advanced to help the agriculturists, do not Government think that that is a sufficient ground for declaring that there is economic distress?

The Hon'ble Mr. A. K. FAZLUL HUQ: Sir, as I have submitted, the districts in which the cess is being realised are not the districts in which there is distress. For the information of the House, I may mention that the districts where cess is at present being realised are eight. They are—Mymensingh, Dacca, Noakhali, Chittagong, Tippera, Jalpaiguri, the 24-Parganas, and Faridpur.

Miss Kalpana Datta.

38. Mr. LALIT CHANDRA DAS: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether it is a fact that one of the grounds on which Miss Kalpana Datta, a prisoner in the Chittagong Armoury Raid Case, was set at liberty, was that she should be allowed to prosecute her studies, if she so desired?

(*b*) Is it a fact that the said Miss Kalpana Datta wanted to be admitted into the Chittagong College but that she was refused admission?

(*c*) Does the Government propose to take steps to enable her to get admitted into the Chittagong College for prosecuting further studies?

(*d*) Did Miss Kalpana Datta petition the Government for a compassionate allowance of Rs. 40 per mensem for prosecuting further studies in view of the fact that her father is out of employment and she is now in penury?

(*e*) Does the Government propose to grant her a reasonable allowance to help her to become a useful citizen? If not, why not?

The Hon'ble Mr. A. K. FAZLUL HUQ (on behalf of the Hon'ble Khwaja Sir Nazimuddin): Steps are being taken to procure the information, which, I regret to say, is not yet ready.

Mr. LALIT CHANDRA DAS: May I enquire, Sir, when these steps are likely to be complete?

The Hon'ble Mr. A. K. FAZLUL HUQ: That is more that I can say. I am trying to expedite matters.

Mr. LALIT CHANDRA DAS: Can we expect the answer in the next session?

The Hon'ble Mr. A. K. FAZLUL HUQ: That I cannot guarantee now.

Hostel for Hindu students of the Chittagong College.

39. Mr. LALIT CHANDRA DAS: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state the total number of students at present in the Chittagong College? Of them, how many are Hindus and how many Muhammadans?

(*b*) Is there any Moslem students' hostel for accommodation of the college Moslem students? If so, how many are accommodated in that hostel?

(*c*) Of the Hindu students studying in the Chittagong College, how many are living with their parents or other guardians, and how many are living in messes?

(*d*) Is there any hostel attached to the college for the Hindu students studying in that college?

(*e*) Is the Government aware that public opinion in Chittagong has been insistently demanding a hostel for accommodation of Hindu college students of the Chittagong College?

(*f*) Was there any such college hostel for the Hindu students in the town of Chittagong? If so, what has become of it?

(*g*) Does the Government propose to provide accommodation for the Hindu college students of the Chittagong College in a hostel sufficient to accommodate them? If not, why not?

The Hon'ble Mr. A. K. FAZLUL HUQ: Steps are being taken to collect the information, which I regret to say is not yet ready.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to give us an idea of the approximate time within which it is likely that the answer will be available?

The Hon'ble Mr. A. K. FAZLUL HUQ: Sir, the collection of information is done by many agencies and it is impossible to give anything like a time-limit, but I can say this much that I shall try to give the information during this session.

Supplementary Statement of Expenditure for 1939-40.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I beg to present the Supplementary Statement of Expenditure for the current year. May I make a few comments in this connection, Sir?

Mr. PRESIDENT: Yes.

The Hon'ble Mr. H. S. SUHRAWARDY: The total covered by the estimate is Rs. 21 lakhs 17 thousand and is distributed among thirteen grants. Two of these grants call for individual mention. Grant No. 36 covers a sum of Rs. 5,88,000 on account of charges in connection with the War. These charges are expected to be recovered next year from the Government of India. Grant No. 34 comprises a sum of Rs. 6,50,000. This demand has been necessitated by the fact that the money required for Jute Registration is being advanced in instalments to the Director of Land Records and Surveys. The advances will be ultimately adjusted against actual disbursement

under "40—Agriculture" against the grant of Rs. 7,15,000, voted for the purpose in December last. The demand does not, therefore, represent new expenditure and is merely an accounting adjustment which requires the vote of this Legislature. The reasons for additional demand and appropriations under other heads have been set forth in the explanatory memoranda and will be gone into more fully by the Hon'ble Ministers in charge when these estimates come under debate.

The Bengal Finance (Amendment) Bill, 1940, as passed by the Assembly.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I beg to move that the Bengal Finance (Amendment) Bill, 1940, as passed by the Assembly on the 15th February, 1940, be taken into consideration.

Mr. PRESIDENT: Motion moved: that the Bengal Finance (Amendment) Bill, 1940, as passed by the Assembly, be taken into consideration.

Mr. RANAJIT PAL CHOUDHURY: Sir, the Bill seeks only to repeal the amendment made by this House on the 11th May, 1939, to the Bengal Finance Bill, then under consideration.

The Minister in charge in moving for the consideration of the present Bill in the other House dealt not with the merits or demerits of the proposal contained in the Bill, but only discussed the right of this Council to make amendments in regard to Money Bills.

As far as I am aware, some members in another place have raised the question of the right of this House as regards Money Bills.

Sir, "Money Bill" is an elastic term used by constitutionalists in England. Really, Money Bills mean taxation proposals and not Bills in which merely a reference to money is made. Besides, the alterations that this House made did not affect the taxation proposals at all, but only curtailed the powers of the Executive and enlarged the powers of the Legislature.

The House of Commons in England and the Lower House here do not stand on equal footing as the powers of the House of Commons have been attained by struggles with the King and his people since the days of the *Magna Carta* and not by any written Constitution, whereas the Assembly here is a creature of the thrusted Constitution within whose four walls it is to function.

Likewise, a comparison between the House of Lords and this Council is erroneous in some respects. The House of Lords is a hereditary body consisting of the richest classes, viz., the nobles and the peers,

and as such cannot be said to be the representatives of the masses, hence no power has been given over taxation proposals, whereas the Council is an elected body and, therefore, represents electors who are also tax-payers.

Sir, the Council has been given concurrent powers over all Bills, irrespective of whether a Bill is a Money Bill or not. Had the framers of the Constitution any other intention, they would have precluded the Council from considering all money matters, as has been done in the matter of voting on demands.

I admit, Sir, that we should build up conventions, but they must be healthy ones and within the four corners of the Constitution.

But the method adopted in another quarter, in starting the conventions by rejecting all proposals irrespective of merits, is not the spirit in such matters. Conventions can only be started by generating a feeling of mutual confidence between the two Houses.

It is to be sincerely regretted that none of the Ministers raised a voice of protest when the powers and prestige of this House was attempted to be curtailed or lowered. Was it because there is no Minister from this House?

Sir, with these few words, I oppose this amending Bill.

Dr. RADHA KUMUD MOOKERJI: Mr. President, Sir, I rise to oppose this motion for taking into consideration of the Bengal Finance (Amendment) Bill. I take this measure as the culmination of a series of outrages that have been perpetrated by the present Government on the dignity and liberties of the Upper House. Only the other day, this House, I believe, passed unanimously an amendment which form the subject-matter of this Bengal Finance (Amendment) Bill. At that time, I think the spokesman of the Government had every opportunity to discuss the amendment that was before the Council, in all its bearings. But, on that occasion, in a spirit of sweet reasonableness the Government as well as their followers agreed to pass unanimously this amendment. Unfortunately, probably the Government found itself in a very bad company elsewhere, a company of reactionaries, a company of people who had no respect for the liberties of this Chamber. I thought that the amendment that was passed in this House was a most inoffensive amendment which was necessary in the higher interests of the masses. Unfortunately, that attitude has disappeared and here is an instance where party politics has probably reached its very highest limit. What on earth was the reason which made the Government in this House to go back upon a decision, which was unanimously reached here by all parties? We were then told that the amendment was very necessary in order to safeguard the rights of the Legislature as against the despotic rule of the Executive.

If you go through the history of democratic countries and especially the recent developments in those countries, you will find that there is really a menace to Democracy from this continual attempt on the part of the Executive to make inroads upon the freedom of the Legislature. It is part of the eternal quarrel that is going on all over the world in democratic countries between the Executive and the Legislature. Here, the Executive is always trying to encroach upon the rights and privileges of the Legislature, and a move like this is merely a sample of the nefarious attempt that is going on in all the democratic countries. This very subject forms the matter of a regular treatise written by no less a person than the Right Hon'ble Lord Hewart, the Chief Justice of England, in his book entitled "The New Despotism," and the remarks and wordings employed in that erudite work apply with very great force to legislative measures like the one we are compelled to consider to-day. I will just give you a sample of the kind of encroachment that is constantly being attempted by the Bureaucracy upon the privileges of the Legislature. There is always a large and increasing field of departmental authority and activity beyond the reach of the Legislature and the Ministers or the Bureaucrats are always trying to fortify their departmental authority as much as possible by passing regulations and rules such as are contemplated here. I will quote from this learned book some passages which will have very great application to the situation in which we find ourselves to-day :—

"The citizens of a State may indeed believe or boast that, at a given moment, they enjoy, or at any rate possess, a system of representative institutions and that the ordinary law of the land, interpreted and administered by the regular Courts, is comprehensive enough and strong enough for all these purposes. But their belief will stand in need of revision if, in truth and in facts, an organised and diligent minority equipped with convenient drafts, and employing after a fashion part of the machinery of representative institutions, is steadily increasing the range and the power of departmental authority and withdrawing its operations more and more from the jurisdiction of the Court."

No better description can be given of the situation that is now being created by the introduction of this small measure which is fraught with serious consequences, not merely for the future development of the Legislature but also for all the democratic institutions in this country.

I am tempted to refer here to a funny story which is recorded by Chief Justice Lord Hewart: "There is an agreeable story, not too old, of a distinguished Anglo-Indian civilian, who, returning home on leave after a prolonged absence, passed the Houses of Parliament on his way from Victoria to Charing Cross. 'What place is that?' he

asked. 'That Sir,' was the answer, 'is Parliament—the Houses of Parliament.' 'Really,' he exclaimed, 'does that rubbish still go on'?" Here is the mentality of a bureaucrat who found himself very much amazed even by the sight of a building—the House of Parliament—in his own home. Now, what are the promoters of this Bill doing? This Council passed an amendment which suggested that in regard to a Bill of taxation which was then before the Council, exemptions should not be granted by the Government on their own initiative. The House of Legislature may agree to certain principles involved in a new measure of taxation. The Legislature is always co-operating with the Executive in helping the Executive to pass any measure of taxation where necessity is proved. But, unfortunately, the Government in their own original proposal took power to themselves to grant exemption from taxation on their own initiative without any reference to the Legislature. Now, the Council agreed to the scheme of taxation, but certainly the question of granting exemptions was radically different and stood altogether on a different footing. Because the House agreed in principle to a measure of taxation, it does not follow that the House was prepared to go the whole hog with the Executive and arm the Executive with powers of exemption which ought to be dependent upon the approval of the Legislature. We asked the Government, "Why on earth do you seek to arm yourselves with despotic powers or irresponsible authority to amend your measure of taxation in any way you like by granting liberal exemptions which may be deemed necessary according to your judgment?" That is an appeal that this Council addressed to the Government. Well, that appeal had its effect and it struck the Government that the issue that was raised then was regarded by the members of this Council as an issue affecting not merely all parties but the privilege of this House as a whole. Here, practically the question is one of Legislature versus an irresponsible bureaucracy. It has always been their tendency to consider themselves as experts and to think that they should work unhampered by the so-called dilatory process of the Legislature. Perhaps in the spirit of that Anglo-Indian civilian who was returning home after a long absence, the bureaucrats might always sigh for the day when their work would not be hampered by any kind of discussion in any democratic institution. That is the mentality of the bureaucrats.

Here at least in Bengal, Provincial Autonomy has just started and every member of the Legislature is very, very zealous about extending the political progress of the province under a genuine system of Provincial Autonomy. Instead of that, we are now being menaced with the manifestation of that new despotism on which the Chief Justice of England has been forced to write a complete and scientific treatise. I had no idea that the abuse of Democracy which has formed the subject-matter of this big book would manifest itself so early in the career

of Democracy in Bengal. I, therefore, think that Government are extremely ill-advised in going back upon this amendment which was carried in this House unanimously and thereby encroaching upon the domain of Democracy itself. I, therefore, think that the Government will still see their way to drop the measure, if possible.

Before concluding, I wish to repeat my appeal to my honourable colleagues in this House that they should treat this matter now before us as one in which all parties are equally interested, because the matter concerns not merely the dignity and liberty of this House, but also the liberty of the Legislature itself as against an irresponsible Executive or Bureaucracy that always tries to be irresponsible and irresponsive to the voice of the public as expressed by their representatives.

Lastly, the members of this House must stand by the privileges of this House once for all. Let them not on every occasion prove by their action that the Upper House is functioning as a mere echo of the Lower House, that it is always repeating its master's voice which is heard elsewhere. I do hope that all my friends in this Council, irrespective of their party alliances and party allegiance, will once again reaffirm the amendment that was carried the other day unanimously, simply on the ground that the amendment embodies the principles of constitutional liberty which no irresponsible Executive should be allowed to trample down. After all, exemption from taxation is a very, very serious matter and as a rule exemptions should not be granted. If in hard cases exemptions are to be granted, why cannot you make rules to cover those exemptions and why do not you take into your confidence this House in the matter of passing rules that you think you require for the carrying on of your administration? Where is the harm if you simply consult this House about the rules that they left to you to be framed? Why don't you show even this small courtsey to this House? Why do you arrogate to yourselves a method which is really a function of the new type of despotism? Presumably, that policy threatens ultimately the interests of sound administration, because if the Government is left with the power of exemption, they might be swayed by selfish interests which cannot appear before the light of the day. Why should Government not concede to the request of the Opposition even in such a small matter, although this matter is fraught with extreme difficulties? Let them once more show the same spirit of sweet reasonableness in which they accepted the amendment a few months back. Let them again show that spirit and prove that the Government are as interested as the members of the Legislature in standing up for the ideals and dignity of democratic institutions.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: I oppose the motion for the consideration of the Finance Bill. I do so

not only on the merits of the question, but on the issue of prestige and privilege of the House which have been affected by this motion. This motion has been brought in order to repeal the amendment which was carried in this House on the 11th May, 1939, with the support of all the advanced and independent sections of the House. In this connection, I may draw the attention of my honourable friend Mr. Hunter, Leader of the European Group, to the fact that he with his colleagues also supported the amendment on that occasion. Mr. Ormond, on behalf of the European Group, stated thus, "Our view is that in this matter it is necessary for us to be careful not to delegate the wholesale rule-making power without reasonable safeguards. For that reason, amongst others, on behalf of the group to which I have the honour to belong I support this amendment." Not only that, even Khan Bahadur Ataur Rahman, Deputy Leader of the Coalition Group, had also supported this amendment.

In the course of his speech, the Khan Bahadur stated as follows:—

"Some time later, the Congress Government may be in power in Bengal and they may lay down that all Congress members are exempt from this. So, as it is desirable that there should be a limit on the powers of the Executive authority, I whole-heartedly support this amendment."

I am sorry that my friend Dr. Mookerji said that that amendment had been carried unanimously. This statement of his is not quite accurate. As a matter of fact, it was not carried unanimously by the House but with the consent of all progressive parties.

Sir, as far as I can gather from the speeches in the other House, the present Bill has been brought forward not on the issue of the merits and the demerits of the question, but only to pander to the wishes of the supporters of Government in the Lower House. It is surprising that Government did not feel the least hesitation in bringing forward this amending Bill which does not touch the Finance Bill at all. It is evident that this Bill has been brought in only to satisfy the Coalition Party or the supporters of Government at their behest. Had there been even one sentence uttered elsewhere either by the Opposition or by the supporters of Government or even by the Hon'ble Finance Minister, on the merits of this question, I would have been prepared to reconsider my position on that issue alone. But, as far as I am aware, Sir, even some of the members of the Opposition in the other House, though opposed to the amendment passed by this House in May last on constitutional grounds, yet on the present occasion, when the Finance Bill had been brought before them, they opposed the present Bill and in doing so, they admitted that there can be no two opinions on the question of the merits of the amendment passed by this House, by which the rule-making powers were taken out of the hands of the Executive and given to the Legislature. I may mention here that some

of the members have claimed that by passing the amendment, this House tampered with the rights of the Lower House. Sir, being a constitutionalist all throughout my life, I would never have sponsored the amendment had I had the least doubt in my mind. I do not say, Sir, that any amendment carried in this House should not be modified or rejected by the other House, if there be reasonable grounds for doing so. But, Sir, that is not the case here. The question is quite the reverse. I may inform the House that the words "Money Bills" only mean such Bills by which taxation proposals are made. In the present case, this House did not make any change in the taxation proposal, but only made a change by which the Legislature desired to curtail the powers of the Executive in respect of rule-making.

In this connection, I may state that just after the amendment in question was passed on the 11th May, 1939, even the "Statesman" in its editorial column of the 28th May commented on it very strongly, and supported the idea of curtailment of such powers of the Executive. The "Statesman" said: "Even some of the big constitutionalists feel that some governments do frame rules in such a way as to frustrate the object of the Legislature and evade the control of the judiciary." Therefore, I say that on merits alone, the present amending Bill should be opposed.

Then, Sir, I come to the question of the prestige as well as the privileges and rights of the Upper House. Sir, I make a strong protest against the attitude of the Lower House and also of the Government in not protecting the prestige of this House- —

Mr. PRESIDENT: Order, order. Is it necessary, Raja Bahadur, to refer to what happened in the Lower House? I do not think that the Hon'ble Finance Minister said anything at all that this House is debarred from opposing this amendment or rejecting the same.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, with your permission, I would like to make the position clear. It seems that all the three speakers have proceeded on certain wrong assumptions. Sir, had I felt that the prestige or dignity of this House was involved, I would not have asked this House to reconsider their own position which, in my humble opinion, proceeded from a misunderstanding of the situation. Sir, I have been trying to refresh my memory from statements made elsewhere, and I may tell the House that I made it definitely clear that whatever might be the views of the other members on this question, my view is that this House had the absolute and perfect liberty, once it was in seisin of any measure, to do whatever it liked to do, and in the face of this attitude of myself and of the Government, I hardly think that the condemnation to which we have listened to is justified.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, the point I was trying to develop was that it was the duty of the

Finance Minister to raise his voice of protest when unfair comments were being passed elsewhere against the legitimate exercise of its statutory rights by this House. The fact that no attempt was made by any of the Ministers while members of the other House were indulging in remarks calculated to lower this House in the estimation of the public, shows that they were a party to this attitude. As a matter of fact, in the Lower House reference was made to the speeches delivered in this House. So, in that way, Sir, I referred to the matter. However, Sir, under your ruling I will not make any reference to what transpired in the Lower House.

Mr. PRESIDENT: Order, order. I have already said that it is not necessary—as a matter of fact it will not be relevant—even to refer to what happened in the other House. If honourable members desire to have a definite ruling from the Chair on the point, I shall be prepared to give it.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, I am not going to refer to the speeches of the Lower House, as you have been pleased to rule out any reference to them. But I shall speak with regard to the prestige of this House without reference to what happened in the Lower House. My object in referring to the Lower House was to emphasize on the necessity of conserving the prestige and dignity of this House. I may add, Sir, that I referred to the affairs of the Lower House by way of protest, and I want that members of this House would stick to their decision already given.

Mr. PRESIDENT: Will the honourable member please come to the merits of the question now before the House instead of dilating on the prestige of this House? The Chair is the custodian of the rights and privileges of this House and will always uphold its dignity and prestige.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Now, Sir, the position is this. The amendment that has been proposed is not a very important one—it does not affect either the Government or the public. As a matter of fact, in other countries also this sort of rule-making power is left not only with the Government but also with the Legislature. In all countries, after the rules have been framed, they are placed before the Legislature for approval. So far as the merits of the issue involved in this Bill are concerned, there is no denying the fact that modern tendency all the world over is against vesting the Executive with powers in the matter of rule-making. With regard to the other question, I stick to my view that if you allow this sort of thing to go on, our prestige will suffer much.

Khan Bahadur M. ABDUL KARIM: Mr. President, Sir, it is unfortunate or rather, it is fortunate, that I was not present on the

11th of May last when this Bill came up for discussion in this House. My Deputy, Khan Bahadur Ataur Rahman, who was then present here did not consider it necessary to vote with the Government. He reserved his vote. But now, Sir, I am free to express my own opinion that if I had been present on that date, I would have cast my vote along with the Congress and the European Groups. (Cries of "Hear! hear!" from Congress members.) Sir, the Hon'ble Finance Minister now comes before us with this Bill for a review of our decision. There is no question of consideration or reconsideration but only of review of our decision on this point. And as a matter of fact, in all cases of review we always insist upon the discovery of some new matter which requires us, on second thoughts, to revise our decisions. But in this particular case, Sir, no reason has been assigned as to why, before the lapse of 7, 8 or 9 months, Government should come up and ask us to reconsider our decision, I mean, the decision of this House. A simple statement is made regarding the object of the Bill, but the reasons are not given. This is what the Statement of Objects appended to this amending Bill says: "The object of the Bill is to empower Government to make rules providing for exemption or remission without reference to the Legislature." That is all, Sir. No reason has been given, even in the Statement of Objects and Reasons. Therefore, my submission is, or rather my preliminary objection as a legislator is this. I should say that no case has been made out for a review of the previous decision. (Cries of "Hear! hear!" from the Congress Benches.)

In the second place, the Hon'ble Minister himself, a lawyer, and a constitutional lawyer at that, ought to know that there is a good deal of distinction between "delegation of powers" and "abdication of rights."

Now, Sir, in calling upon us to reconsider our decision, I am certain that the Hon'ble Finance Minister feels that he calls upon us to abdicate our rights in the Legislature. No question of delegation of powers that we have got is involved. In the next place, Sir, on reading the report I find that the Hon'ble Finance Minister was unable to come forward with any cogent reasons against the modification of the amendment suggested in this House. As a matter of fact, Sir, while rules are framed, it is essential that they should receive the approval of the Legislature from whom the rule-making authority is derived. It is not only the common-sense view, but also the legal view, that the matter delegated should be with the full knowledge and consent of the person or persons delegating. It was a very modest proposal, a very sensible proposal, and a very relevant proposal that was made by the Council, namely, "yes, the Government can make rules——

The Hon'ble Mr. H. S. SUHRAWARDY: I am sorry, Sir, to intervene by way of making a suggestion. I did not make any speech

while formally moving my motion. I reserved my remarks. Will the honourable members be pleased to withhold their very considered views after I have spoken and after they have heard me on the subject? It is possible that they may then find my reasons cogent enough for them to support the measure.

Khan Bahadur M. ABDUL KARIM: Sir, as we have got no right of reply after the Hon'ble Minister speaks, I thought of anticipating his reasons.

The Hon'ble Minister says that he has reserved his reasons within himself till after the close of the debate. Therefore, I have no other alternative but to anticipate what he could possibly say, and I am trying to convince the House by anticipating. As a matter of fact, whatever may be the reasons he may give later on, they should not be acceptable to this House. Therefore, the first point that I was going to place before the Hon'ble Minister is that he must remember that there is a distinction between abdication of rights and delegation of powers.

Now, Sir, what are we going to delegate? Practically, it means that certain persons are to be exempted. We want to know, before we give you that delegated power, what are the persons or classes of persons and the circumstances and conditions under which you want to exempt by the rules, so that we can see for ourselves if we can approve of them and give our final sanction to that delegation. For this reason, it is essential that we should not give them a blank cheque. We cannot give the Executive a blank cheque and what is more, an unsigned cheque. Give me a list of the persons and the amount of revenue you want to remit and I will put my signature only on the cheque and then you can fill up the details. It is precisely the duty of the Executive Department to do things like that, because they cannot trouble the Legislature off and on with these small details. The Bill provided that from every person paying an income-tax on Rs. 2,000, an excess tax amounting to Rs. 30 should be realised. That is the law that we make. If we give them the authority or if they exercise that authority to exempt persons even who paid Rs. 2,000 as income-tax, then a second legislative power is exercised by the Executive. That would be inconsistent with the Act. That would be a delegation inconsistent with the object and spirit of the Act. Therefore, we cannot give a blank cheque like that. By rules, we understand the machinery through which our will has to be executed by the Executive Department, not that they must have a will of their own. I want that all these people should be taxed. You know you are not going to tax those people. So, you are practically going against our will which no delegation can mean or imply.

There is another difficulty. We have always supported Government from this side of the House, but in a matter which affects the legal and constitutional rights of the House itself, we cannot think of any party

consideration, because it affects the right of the Legislature in a fight with the Executive which is trying to get the upper hand.

Therefore, finding that this legislation has been passed by both the Houses, after 7 months you come up again for its reconsideration. Somehow or other,—we do not know how,—you got hold of the other House. We are old people and cannot allow ourselves to be easily caught. My submission is this that, as was suggested by Dr. Mukherji, in this case do not make the situation more unhealthy by creating an unhealthy Convention in this House, I would also advise our old friends, the Government, to withdraw this amending Bill from here.

Not only that, there is another danger. We have always supported the Government and we are always prepared to support the Government when they are reasonable; but if they are unreasonable they cannot expect that support from us. Whatever may have been the rule prevailing before the inauguration of Provincial Autonomy, we are now going through a system of party government, and the complexion of the present-day Government now is somewhat different from the Government of old. In these days of party government, would it be safe for us to legislate for all time in a manner in which the Executive gets the upper hand over the Legislature? Take for instance, the Congress Party comes into power in Bengal and then the Executive Government declares that all Congress Leaders and Deputy Leaders and Secretaries should be exempted from this tax, where would the remedy lie in our hands? Then, the Executive Government will say that you have given us the power by delegation out and out and how can you call it back? You have given us a clear *Ammoktarnama*. Therefore we must be very cautious. We are not going to place this sort of power in the hands of the Executive that has been in existence for only about three years. Let us wait and see if you can inspire confidence. If you can inspire confidence in us or in our successors, then time may come when they may entrust you with complete delegation, but we do not make friends too soon. They have to be tested. Therefore, I hope that Government will excuse us if I, for one, do not support the Government on this occasion. I believe the majority will follow me, although I have given them absolute freedom in this matter. I have told them that it is not a fight between this party or that party. It is a fight between the Legislature and the Executive, the Upper House and the Lower House, the Provincial Legislature and the Provincial Executive. In that view of the case, I think the members of my party, who are quite as sensible as I am and quite as wise as I am, will think it at least prudent to follow their Leader.

Mr. HUMAYUN KABIR: Mr. President, Sir, after the extremely interesting and wise pronouncement of the Leader of the Coalition Party in this House, I would not have spoken but I want to add two points in further support of what he has said. The honourable the

Leader of the Coalition Party has made it sufficiently clear that the Government have not adduced any reasons why they want a re-consideration in this House of something to which this House applied its mind and came to a definite decision. The point which was raised by the Hon'ble Finance Minister that he would give a reply after we had all finished and that we should be prevented by you from making any further remarks has already been disposed of by the honourable the Leader of the Coalition Party.

In addition, I wish to make two other remarks. First of all, I think that the Government should have come to us after giving this existing Act a trial. If there had been any difficulties, they could have come and told us; "Look here, we accepted the decision which you made, we accepted the amendments which you made, but we have found that there are some practical difficulties in its working." That has not been done. As yet Government are not in a position to say that the Bill, as had been passed by the two Houses at that time, has been given a trial and has been found wanting, that the amendment which was carried in this House with the support of all sections of the House put any special difficulties in the way of Government. Government is not able to say that, because they have not given a trial to the amendment which was carried here. Still, they want reconsideration. I hope every member of this House will remember this fact. We have not as yet any reason to think that the amendment that was carried was in any way unreasonable or put any special difficulty in the way of the Government.

Then, there is one other point to which reference was made by, if I remember aright, my honourable friend Mr. Hunter. When this amendment was being discussed last time, he mentioned the fact that if the Government felt any difficulty about carrying the rules, item by item, through the Legislature, there is the procedure followed in other parts of the world, namely, of the Government making certain rules and placing them on the table of the House. If there is no objection to those rules within a certain time, then they are taken to be accepted by the Houses of the Legislature. Therefore, there is no special difficulty in giving effect to the amendment which we in this House carried with the support of all sections of the House. Sir, at this stage, I do not propose to make any further remarks. If the amendment comes later on, I may have something more to say, but I would submit to the House that as yet Government have not given any reason whatsoever for taking the Bill into consideration.

Mr. E. C. ORMOND: Before I speak, on a point of information may I ask what is the purport of the Hon'ble Finance Minister's remarks

which he made a moment or two ago? Is it the wish of the Finance Minister to speak later on in which case we shall not have the opportunity of hearing what he has to say before we shall express our views on the present motion or is it the Finance Minister's suggestion that the hon'ble members should reserve their detailed observations till the next motion after this amendment for consideration is carried? I am ready to state the whole view of the matter as my party sees it now; or to reserve that for a later stage whichever you, Sir, rule to be convenient.

The Hon'ble Mr. H. S. SUHRAWARDY: With your permission, Sir, may I make my position clear as to what I mean? I am quite prepared to intervene in the middle of the debate. What I requested the honourable members to do was to reserve their opinion. That is all. If the honourable members express their views without hearing me, they may do so, but there will hardly be any room thereafter for any argument on my part or any attempt on my part to modify the decision they may take; whereas if the honourable members feel that I have a *primâ facie* case, they may be prepared to listen to the views of Government. That would be an entirely different matter altogether.

Mr. PRESIDENT: The Hon'ble Minister can only speak once in reply, and it is not necessary for him to explain that the members must keep their mind open till they hear him on this subject. I wish to make it clear that the right of reply is only meant to give an opportunity to reply to any new point. So, if the Finance Minister desires to put forward any new argument he will be wrong. He will not have the opportunity to advance any fresh point.

Mr. E. C. ORMOND: In view of this observation, I will take the present opportunity to place the views of this party on this Bill. On behalf of this party, I am asking the House to favour the motion for taking this Bill into consideration. There are certain advantages of legislation by delegation of rule-making powers, that is to say, by the conferring of the power to make rules on another body which is a different person or different body of persons. As I see it, the advantages are two-fold. One is that by leaving over certain matters which are not contained in a Bill to be dealt with by a department of Government or by a particular board or by a particular person, the Legislature is kept free from working out matters of detail which might be too lengthy a process for any Legislature to perform, and it allows those matters of detail to be worked out by persons who are connected in their daily lives with the particular scope and business to which the Bill refers.

A second advantage, Sir, is no doubt that by delegating legislation to a body other than the Legislature, the result is attained that the provisions which are contained in the rules may be altered without

further reference to the Legislature. That is a very important matter, because what is contained in the body of a Bill passed by a Legislature of Bengal can only be amended by an amending Bill passed by the Legislature of Bengal, and when once the Bill is passed, it may well be that certain important matters need modification or alteration thereafter. It is a convenience not only for the public but also for the Legislators like ourselves. It is a convenience that room for future modification and alteration should be left over.

Those, Sir, are the two main advantages which I see in availing oneself of the power of delegation to a rule-making authority other than the Legislature. Members, of course, will fully realize, after the discussion which has been opened up in relation to this matter, that the force of the rules when made, and while they continue to be in force, is precisely the same and no less than the force of any Act or any provision within the body of the Act, which is passed by the Legislature itself. The fact that if the Legislature says that some authorities may make rules does not alter the position that those rules when made will have precisely the same force as if they were part of the Act itself, and, therefore, any infringement of those rules will have the same force as any infringement of the Act itself. Therefore, the form and the weight and the power of the rules when made are no less than the most vital section in the Act itself.

Now, Sir, that being so, it is clear that certain things are proper to be embodied in the Act and certain things are proper to be left over to be embodied in the rules. Having in mind the complexity of modern legislation, it would be impossible—and members of this House would be the first to realise it—for the Legislature itself to discuss and consider every detail which is required to be made law in relation to every Act.

Mr. PRESIDENT: Order, order. I think that point is not disputed. The point at issue is: should the rules, when they are made, be subjected to the scrutiny of this House? There is no dispute about the point that delegation must be given in these matters of detail to the Government. You seem to have missed the real point.

Mr. E. C. ORMOND: I am very much obliged to you, Sir. I was only making that somewhat obvious observation for the purpose of leading up to something else. As I said, Sir, it is obvious that certain matters are proper to be put in in the Act and certain other matters are proper to be put in in the rules.

Now, at the time when the original Bill was being considered in this House, the party to which I have the honour to belong, addressed

its mind to the question whether the exemption of particular persons was a matter which should be best put in the Act or was a matter which should be put in the rules framed thereunder.

Now, Sir, on that occasion we asked the Hon'ble Finance Minister of the time what object he had in mind when he was favouring the passing of section 7, what object he had in mind in relation to the exemption of any one, because *primâ facie*, in a Finance Act of this sort, it seems to me that there is no need for any marginal relief. If you decide that persons up to a limit of Rs. 2,000 of income do not require to be taxed while persons over that limit should be taxed, then there is the limit; and it appears on the face of it a simple matter to stick to that limit. If the Legislature considers that that limit is too low, it is open to the Legislature to raise the limit higher. But it is difficult on the face of it for me to appreciate what is the real necessity of having any rules for any marginal relief at all. If there is some necessity which was not clear to us on that day, then one would have thought that that provision for marginal relief might have been put in in the Act itself. And it was rather on that basis that we voted on that day our feeling being that if it was to be made by rules at all, it should be made by rules which would be subject to the approval of the Legislature. We had hoped that if Government had been ready with their provisions for this marginal relief, they might have moved an amendment and inserted them in the Act itself, because on the face of it that would appear to be a natural and important provision which would be a proper provision to be put in in the Act itself, but the Government were not ready, I think the Finance Minister himself stated that they had not worked out the principles of exemption, and as they were not ready it was impossible to put those provisions into the body of the Act. Therefore, they had to be left over to be framed by rules. But as they appear likely to be important, we, Sir, took the view that if they were to be left over to be framed by rules, they should be framed by rules which would be subject to the approval of the Legislature. It will thus be seen that our first reaction was that provisions of that importance would have been best put in in the body of the Act itself with the result that the motion was passed that the exemptions to be given under section 7 had to be made by rules subject to the approval of the Legislature. After that the House took up section 8, and in due course section 9. As that rule-making section stood, when the Bill was being introduced in this House, it had no provision either for a condition of previous publication of the rules or any condition that the rules should be subject to the approval of the Legislature. But the Government was accommodating enough to accept a short-notice amendment that the rules under section 9 should be made only after previous publication.

Now, Sir, every one is fully conversant with the fact that when that provision is put in in an Act—at the present day when the rules are to

be made after previous publication—that means that the rules, the draft rules will have to be published first, so that members of the Legislature and other bodies and other persons interested in them will have the opportunity of putting forward their views to Government in order to have those rules altered, if necessary. If they think that they are not good, then those rules will not be finally enacted until the opinions of those members and of those bodies are taken.

Now, Sir, the party to which I have the honour to belong, having considered the matter, takes the view in general that provided a provision for previous publication is inserted in an Act when a rule-making power is conferred, that in practice will be the best method of safeguarding proper and adequate (and not improper or inadequate or unnecessary) rules being framed.

Mr. LALIT CHANDRA DAS: Without the approval of the Legislature?

Mr. E. C. ORMOND: Sir, the party to which I have the honour to belong, has come to the view that, as a general rule, this will be a more practical method than to make the rules subject to the approval of the Legislature. For one thing, it appears to be a matter of some doubt whether rules framed by an Executive Department of Government can be laid on the Table in this Legislature and deemed to have been passed within a certain period if no objection is taken. There has been a suggestion in some quarters that in this Legislature if the rules are to be approved by the Legislature, it will be necessary for those rules to be passed just in the same way as an Act is passed, each clause being duly considered and voted upon, and if that were the case, it is obvious that there would be innumerable amendments and the whole power of rule-making might be jeopardized because the House itself would have to take up again legislation in the matter of those rules. And, therefore, that would be legislating in a circle, which would be a vicious circle, and it has been suggested that the Legislature will never have time to pass the rules. I, Sir, personally cannot see that that difficulty cannot be overcome; and I cannot see that it could not be possible to have a system in exceptional cases, where necessary, that rules should be laid on the Table and should not be subject to any number of amendments but should be deemed to be passed after a lapse of time, unless the parties took exception to a particular important point in those rules. That might be a matter for a convention to be created, and it might be that in their eagerness members might put in a great number of amendments; which would vitiate that process.

In any event, Sir, for the present, in view of the assistance that this Government has afforded to the party to which I have the honour to belong, in relation to the consideration and offering of suggestions in

relation to draft rules before they are passed, we, Sir, are quite satisfied, for practical purposes, at the present time, with the provision, in ordinary cases, that rules should be subject to the condition of previous publication.

Now, Sir, that being so, it appears to us that it is more useful on this occasion to make it clear that that will be our course and our general attitude in regard to the delegation of rule-making power from now on, and therefore to vote for this motion to take the present Act into consideration. It is our view that that will be more useful than to spend our time in splitting hairs over this particular Bill in relation to the point whether the exemption of particular persons or classes of persons is a matter in fact which ought to have been embodied in the main provisions of the Bill and therefore, if to be dealt with by rules, should only be by rules subject to the approval of the Legislature, or whether it is a fit matter to be allowed to go into the delegation of rules by a Government department in the hitherto usual way.

But, Sir, there is one minor point I would like to draw the attention of the Hon'ble Minister to——

Mr. PRESIDENT: Order, order. I should like to impress upon the honourable member the real point at issue. That power was delegated to the Government is admitted by everybody. So far as the original Finance Bill was concerned, the Legislature agreed to the principle of delegation of power. The only point now before the House is: whether the rules framed by Government, which they have every right to do, should be subject to the approval of the Provincial Legislature or not. That is the small point to which the honourable member should address himself for the present. Delegated legislation is not a new thing. As a matter of fact, the principle of delegation of powers to frame rules has been accepted by legislatures in the different countries for a considerable period. It is no doubt necessary, and particularly in an emergency, say at the time of a war, to give large powers to the Executive. That is not questioned. But the question here is whether the rules framed should be subject to the approval of the Legislature.

Mr. E. C. ORMOND: Sir, I have very little to add. I was proceeding to invite the Hon'ble Minister to notice one minor matter in relation to this particular Bill. He will see that the rule-making power given in clause 9, as the Bill now stands, is subject to the condition of previous publication and among those rules is clause 9, sub-clause (*e*) of sub-clause (*2*), that is to say, clause 9(*2*)(*e*). There, there are covered rules in this sphere:—"the exemption from or revision of the whole or any portion of the tax under section 7." Therefore, if rules

are made under section 9 in relation to the exemption of the whole or any portion of the tax under section 7, those are to be made after previous publication. But section 7, on the wording of it, appears to stand separately, and the Provincial Government is given power, as the Act unamended stands, "to frame rules subject to the approval of the Provincial Legislature for the exemption," and so on. If the amending Act is passed, under section 7, the Provincial Government is given power "to prescribe the exemption," and so on. Therefore in section 7 as it will stand if this Bill is passed, there is not even any condition, on the grammer of the matter in relation to section 7, for previous publication. But, Sir, we are hopeful that in view of the same scope for rules being specifically mentioned in section 9, and in view of the fact that it is clearly open to the Government to issue the draft rules for previous publication, the Government will not take advantage of any hair-splitting grammar in relation to section 7 and pass rules for the exemption of persons under section 7 without even previous publication. It is in that hope that we are prepared to assist the Government to this extent in relation to this Bill, to allow the present Bill to be considered. You, Sir, observed to me a moment or two back that it was a small point, namely, whether the rules should be made subject to the approval of the Legislature; and I take it from you, Sir, that you were rather fearful that I might be wasting the time of the House in dealing with the matter too much at length. What I was saying in relation to the matter is this. I want to make it clear on behalf of the party to which I have the honour to belong that their view is that it is not as a general rule necessary to insist on the rules being made subject to the approval of the Legislature, provided they are made subject to the safeguard of previous publication in draft. If the executive departments of Government,— which we hope will not be the case and which we hope is not likely to be the case—take upon themselves powers which appear to us to be habitually bad, then, Sir, of course, there would be nothing to prevent us from coming back for other safeguards and insisting on the other stronger safeguard of the rules being subjected to the approval of the Legislature. But for the present, in view of the fact that a lot of details have to be covered by rules in relation to Acts, we, Sir, are of the opinion that a more practical method is that the rules should be circulated in draft so that everybody interested may get an opportunity to express his opinion; and if reasonable, Government may act on such objections or suggestions as are made. Then, if people find that the rules they want are not likely to be passed and bad rules are passed, they can bring in an amending Act.

There is another point to which I attach considerable importance, but I think I should not waste any more time of the House. The Government recently issued a new edition of all the local Acts which they called the Bengal Code. There are several volumes of those Acts,

they have been brought up to date and they have been issued. But, Sir, I have not heard it suggested that they have undertaken the task of issuing any amended edition of the rules which are in force under those Acts. To my mind it is clear, as it is clear to everybody within these walls, that all these rules have precisely the same force as the Acts. I suggest that in a democratic country, under a democratic Government, it is a scandal that rules should be passed and acted on and enforced: when it is absolutely and utterly physically impossible for the public or any person (even persons who are liable to be presented for a breach of thes rules) to obtain a copy. There are about 100 Acts under which rules have been made and which exist at the present time. I took the trouble to write to what I hope the proper department in Writers' Buildings asking for copies of these rules and——

Dr. RADHA KUMUD MOOKERJI: On a point of order, Sir. May I know whether the honourable member is moving an amendment to the Government proposal? It is impossible for us to follow him.

Mr. PRESIDENT: That is not strictly relevant.

Mr. E. C. ORMOND: I will not elaborate the point. But it does appear to us to be a matter which is very closely allied to this question of whether the rules are to be made subject to the approval of the Legislature or not. I have said that if no steps are taken to enable the public to read and obtain the copies of the rules, then it may become more proper for the Legislature to insist that the rules when originally passed are to be made subject to the approval of the Legislature. But provided these rules are properly passed in the first place, and provided they are available to the public in the second place after they have been passed, we are quite content for the present with previous publication without insisting on rules being submitted for the approval of the Legislature.

Mr. HUMAYUN KABIR: I move that the question be now put.

Mr. PRESIDENT: The question before the House is: that the question be now put?

(The motion was agreed to.)

The Hon'ble Mr. H. S. SUHRAWARDY: Mr. President, Sir, I had not for a moment entertained the belief when I decided to move this amending Bill that the House would consider it an encroachment on its prestige on the one hand or on its rights and privileges on the other. Looking through the debate that took place on the first occasion when the Finance Act was moved in the Council, I felt

that there was some misunderstanding which I thought it proper might be removed by placing this amendment once more for the consideration of this House. I must confess, Sir, that I was alarmed at the manner in which an appeal has been made to the honourable members of this House by other honourable members on the ground of prestige and privileges, for, Sir, if I myself was a member of this House with the right to vote I certainly would be moved by an appeal to its prestige and privileges. I submit, however for the consideration of the honourable members that no question of prestige or privilege or curtailment of the rights of this House arises merely because Government in a Finance Bill propose to prescribe certain exemptions, and I shall attempt to place before this House some arguments to meet the arguments of the honourable members who have spoken before me in the hope that even those members who are now entertaining the opinion that the rights and privileges of this House are being encroached upon by giving the Government the right of prescription will change their views after hearing, what I make bold to say, will be arguments not entirely devoid of cogency. Sir, I need hardly refute that appeal to prestige which has been made by Mr. Ranajit Pal Choudhury in which he has asked the Council to vindicate its privilege of amending Money Bills or Finance Bills. He has said that no Minister protested against the power and prestige of this House. I cannot blame him if he has proceeded to base his remarks on newspaper reports which are notoriously incomplete.

Mr. RANAJIT PAL CHOUDHURY: They are firsthand reports.

The Hon'ble Mr. H. S. SUHRAWARDY: I have before me the reports, and I have refreshed my memory from notes and the notes happen to be the proceedings of the Lower House. I stated that whatever may be the views of those who state that the Upper House should not tamper with a Money Bill, for myself I held the view that once the Council is *seised* of a Money Bill, it may do exactly as it pleases.

Mr. RANAJIT PAL CROUDHURY: Go through the whole speech.

The Hon'ble Mr. H. S. SUHRAWARDY: I think that is all that I said on the subject. I do hope the honourable members will believe me and will believe the Government when I say that we have nothing to do with the quarrels of honourable members of the two Houses. So far as we are concerned, we consider that this House has co-ordinate powers with the other House in the framing of laws and passing legislation of whatever type it might be.

I now come to the speech of Dr. Radha Kumud Mookerji. While hearing him I wondered whether he was referring to a Government constituted by law after the Reforms of 1935 or to a Government constituted by law before the Reforms of 1921. He referred over and over again to an irresponsible bureaucracy encroaching upon the rights of this House, and to an Executive endeavouring to pit itself against the Legislature, and on a third occasion he spoke of an irresponsible Executive.

May I say, Sir, that such adjectives cannot possibly apply to a Ministry constituted under the Act of 1935. We shall always remain responsible to the Legislature even if the rule-making power is given to Government, and even if the right to prescribe exemptions—— (Dr. RADHA KUMUD MOOKERJI: "On a point of order, Sir. The Deputy President is seen canvassing.") One honourable member said that once we have given the power of making rules to Government—I think it was Khan Bahadur Abdul Karim who said that—that once the power of making rules has been given to Government, we have got no right whatsoever to object to those rules, whatever those rules may be, and even though they were unjust or unfair or against the law. Now, Sir, I submit that that is not in accordance with the powers which the Legislature possesses. Apart from the fact, Sir, that we may make no rules against the law, supposing that we do make rules which are open to objection, it is always open to either House on the basis of those rules, to move votes of censure against the Government, and to demand the consideration of those rules by the House for its opinion. I would go even further, Sir, viz., that even apart from the rules to which——

Mr. PRESIDENT: Order, order. Honourable members are to take their allotted seats. If they want to have any private talks, they must go to the lobbies. I shall be very strict in future in this matter.

The Hon'ble Mr. H. S. SUHRAWARDY: Even apart from the rules in which you have given discretion to Government, apart from that, in the administration of an Act in regard to which the powers of the Government are defined, if Government administer an Act in an improper manner, it is always open to the Legislature or any portion of it, to condemn the Government on the administration of the Act. And here, Sir, I beg leave to join issue with those honourable members who say that once the power of the prescription has been given to Government or a rule-making power has been given to Government, the House, or any portion of it, cannot review it nor can they ever take the Government to task in that connection.

Sir, Dr. Mookerji has referred to a very valuable treatise written by Lord Hewart on the tendencies on the part of Government and of

the Executive to usurp certain powers which should be left to the Legislature. Sir, I do not know if Dr. Mookerji is also a lawyer or not, but there are many lawyers in this House, and Khan Bahadur Abdul Karim will probably appreciate the remark that statements or precedents that apply to other constitutions and countries ought not to be imported into another country and applied to it.

Dr. RADHA KUMUD MOOKERJI: Even of the Mother of Parliaments?

The Hon'ble Mr. H. S. SUHRAWARDY: We on this point, Sir, have not followed the Mother of Parliaments. Lord Hewart referred to three tendencies, viz.—

(1) "The tendency to make Government departments their own courts."

He illustrated this tendency by many examples of legislation passed by the Mother of Parliaments, of which there is not a single parallel in any Indian statute.

Then he referred to another tendency, viz.—

(2) "The tendency to empower the Executive Government to amend or supersede an Act of Parliament."

And here as well, Sir, I make bold to say that there is no such tendency developed in this province at least.

The third tendency to which he referred was "the tendency to grant excessive rule-making power to the Executive Government."

Honourable members will have to judge, when they grant the power of making rules to Government, whether the power which they are conceding has been excessive or otherwise. And I wish to submit, Sir, for the consideration of the members of this House that, in asking this House to permit Government to prescribe certain exemptions, you are not giving to the Government any excessive powers.

Mr. LALIT CHANDRA DAS: Question!

The Hon'ble Mr. H. S. SUHRAWARDY: Now, Sir, may——

Mr. SHRISH CHANDRA CHAKRAVERTI: On a point of order, Sir. Is the Hon'ble Minister entitled to speak for any length of time?

Mr. PRESIDENT: Yes, if he is relevant.

Mr. SHRISH CHANDRA CHAKRAVERTI: I am referring to the time-limit, Sir.

Mr. PRESIDENT: Yes, Mr. Suhrawardy.

The Hon'ble Mr. H. S. SUHRAWARDY: Now, Sir, when talking about this rule-making power, Lord Hewart admitted, as any reasonable man must admit, and, as a great constitutional lawyer like Lord Hewart must admit that it is obvious, tolerably obvious, 'that the system of delegation by Parliament of powers of legislation is within certain limits necessary, at least as regards matters of detail; because it is impossible, if only for want of time, for Parliament to deal adequately and in detail with all the matters calling or supposed to call for legislation. He goes further and says, "that it is the abuse of the system that calls for criticism." And therefore in considering this matter, honourable members will have to consider whether the system is being abused. That is all. That, I submit, is the only point for the consideration of the members. The House has given to Government, as has been pointed out before and as the Hon'ble the President has directed the attention of the honourable members to,——

(At this stage there was some noise in the House.)

Mr. PRESIDENT: Order, order. The Hon'ble the Finance Minister is speaking, and it is due to him that the honourable members should listen to his speech.

The Hon'ble Mr. H. S. SUHRAWARDY: I beg the honourable members to consider that this is a very important matter and it is a constitutional matter that has been raised, and on a consideration of this probably will have to be framed other Bills and other Acts that may be placed before this House and before the other House. Therefore, I would like the honourable members before coming to a decision not merely to be carried away by the fact that in a division they may win but really to consider the importance of the subject and permit me to place before the House my arguments and permit the honourable members of this House to come to a decision upon the point for the sake of future legislation.

Now, Sir, the rule-making power has been given to this House. The question now is whether, once having given that power, is it

proper—and perhaps I may use a stronger expression—is it wise of the House to go back and say that those rules also must be considered in this House before they are passed?

Now, Sir, here I would like, before I deal with the subject a little bit more fully, to point out to the House one of the reasons why Lord Hewart in considering those rules and the rule-making power of Parliament, referred to the abuse of the powers, so far as the English Parliament was concerned, in terms which do not apply to the conditions which prevail in this country. He said, "A valuable security against hasty and unreasonable legislation is a provision, which is sometimes inserted in statutes giving legislative powers, requiring that, before the powers are actually exercised, persons interested shall be notified and given the opportunity to make objections or suggestions." He referred to the Rules Publication Act, 1893. Then he goes on to point out the deficiencies in the rule and he says, that if that rule really applied, probably his criticism would not be very valid, but he pointed out that in at least six different instances of importance the rule does not apply, the rule of publication does not apply in the English law. To give you an example he says this: "Fourthly, the provisions do not apply at all to rules made by the Local Government Board (now the Ministry of Health), the Board of Trade, or the Revenue Departments, or by or for the purposes of the Post Office, nor to rules made by the Ministry of Agriculture and Fisheries under the Contagious Diseases (Animals) Act." Lastly or "Fifthly, the provisions of the section have been expressly excluded by various Acts conferring rule-making powers," and so on and so forth. And his grievance really is this, that, if the rule regarding the publica- of these rules was general or was really applied to those various acts, there would be little to object. But his main grievance is that there are so many limitations in England which give the right and privilege to Government not to publish rules for the purpose of inviting objections and suggestions that he thinks that the rule-making power given under a statute gives to Government an unreasonable power.

Now, Sir, in this country the position is different. In this country whenever we frame rules, whenever the Legislature gives to Government the power of framing rules, they are subject to the Rules Publication Act, and it runs in the following manner:—

"Whereas, by any Bengal Act, a power to make rules or by-laws is expressed to be given subject to the condition of the rule or by laws being made after previous publication, then the following provisions shall apply, namely:—

(1) the authority having power to make the rules or by-laws shall, before making them, publish a draft of the proposed rules or by-laws for the information of persons likely to be affected thereby;

(2) the publication shall be made in such manner as that authority deems to be sufficient, * * * ." That is, there should be a notice. Time must be given to invite objections and suggestions and the publication in the Calcutta Gazette of a rule or by-law purporting to have been in exercise of a power to make rules or by-laws after previous publication shall be conclusive proof that the rule or by-law has been duly made."

A very pertinent point, Sir, was raised by Mr. Ormond. The point was raised by Mr. Ormond, who wanted to be assured that whatever may be the construction of the law after the amendment, Government would, previous to the prescription of exemptions, publish these rules and invite suggestions and objections. Sir, Government have every intention to do it and we desire, Sir, after we have published the rules, to consider the various objections and suggestions that may be made.

Further, there is one matter which the honourable members have overlooked. I do not think that I am wrong in the contention which I am about to place before this House, regarding the want of machinery under the constitution for the consideration of rules by the Legislature after permission has been given to Government to frame rules. Supposing that after Government have framed certain rules they are considered by the other House, and amendments are made and considered, all this will take time. As a matter of fact, Sir, we are so very pressed for time that unless the honourable members believe that we are going to take advantage of the power which we have asked them to invest us with, I do request them to consider, that if they have no indication as yet that Government have abused that power they will continue to vest Government with the power and continue to repose that confidence which I think Government have earned. Supposing that after due amendment and after spending some considerable time we come to a certain decision in the other House, and those rules thereafter are placed before this House for consideration and this House make amendments to those rules, there is nothing in the Constitution providing for such a contingency. Although the Constitution does for Acts, or Bills, being shunted from one House to another resulting in the end, if there is no agreement, in a joint session. I do not find anywhere in the Constitution anything which provides for rules framed under a power given under an Act being placed before this House, and before the other House and for what should be done in the case of disagreement. As I have said we can hardly import the statutory law of another land on to this province where we are governed by another statute altogether, and I doubt very much whether with this statutory disability any convention can

possibly be created to over-ride it. I do ask the honourable members to consider whether we are not defeating the entire object of the Act and of the rules if this House differed from a set of rules passed by the other House and there was no agreement between the two Houses. I do not know what the honourable members will think about it. I do believe that there is nothing in the constitution, and I shall be very glad if it can be pointed out to me that there was a method of resolving such a dispute.

Regarding the apparent inconsistency, to which I would like to direct the attention of the honourable members of this House, of the House itself considering the rules after giving the rule-making powers to Government, may I say this, that in all major matters, in all matters involving the rights and liberties of the public, the Legislature should be on its guard against any tendency on the part of the Executive Government to reserve the rule-making powers which the Legislature itself would do well to embody within the Act, I wish to go so far as this: that if you consider that there is a likelihood of any encroachment, it would be advisable for the Legislature to go into the details and to embody those details in the statute book so as to fetter the power of the Executive, and I personally, not as a member of an irresponsible executive but as a member of an Executive which is responsible to the House to-day, and a member of a party which may be in the opposition to-morrow and may in that position be equally suspicious of the Executive as the honourable members of the Opposition appear to be regarding the present Executive, do suggest that the Legislature should always be on its guard to see that its powers are not encroached upon, but on this occasion I ask the House to consider whether in a matter of this kind the Executive is going to take advantage—undue advantage—of, its confidence.

So far as we have been able for the time being to gauge there are three matters in regard to which we are considering the provision of exemption.

Mr. PRESIDENT: As I have already stated, you cannot take up any new matter. As this is a new matter I think you cannot take it up.

The Hon'ble Mr. H. S. SUHRAWARDY: I was presuming to comment upon this on account of the point raised by Mr. Ormond, namely, when he referred to marginal relief, he said that he did not quite understand how marginal relief would operate and that if at that time a considered amendment could be placed by Government, then that could have been embodied in the Act itself.

Mr. PRESIDENT: In that case the Chair will be able to accept a short-notice amendment.

The Hon'ble Mr. H. S. SUHRAWARDY: I may say a case can be made out for marginal relief definitely with the sole object that persons should not through the operation of the Finance Act have their income reduced below Rs. 2,000. I will give an example to show how without marginal relief the Act can operate in an unjust and injudicious manner unless some provision is made. For instance, a person whose income happens to be Rs. 2,020 he will have to pay this tax, and his income will accordingly be reduced to less than Rs. 2,000. We have made out a list of such cases.

Mr. PRESIDENT: You need not go into details.

The Hon'ble Mr. H. S. SUHRAWARDY: May I suggest that the question of marginal relief cannot be solved by incorporating it in the Act itself. The point raised by Mr. Ormond is this——

Mr. PRESIDENT: I have already told you that I cannot give you any amount of time. But if there is any good point to reply to, you can certainly do that.

The Hon'ble Mr. H. S. SUHRAWARDY: That is a valuable point, and I will not take any length of time over it.

Take the case of a man who earns Rs. 2,020. His income-tax is Rs. 10 and if he pays this over-tax of Rs. 30 his income will be reduced to Rs. 1,980. Whereas a man earning Rs. 1,999——

Dr. RADHA KUMUD MOOKERJI: He is not empowered to deal with the provision of a Bill to be.

The Hon'ble Mr. H. S. SUHRAWARDY: Whereas a man earning Rs. 1,999 continues to get the benefit of the entire income because he is exempted both from income-tax as well as from this over-tax. How can I apply this marginal relief to the man who earns Rs. 2,020 unless there is some provision? The only way to prevent this hardship is to charge a man who pays an income-tax of Rs. 10 and Rs. 10 only as an over-tax instead of the entire sum of Rs. 30. His income would be reduced to Rs. 2,000. Therefore no injustice would be done to the man if marginal relief could be applied in this matter. If the marginal relief is not applied, the honourable members would see for themselves that that man's income is reduced below the income of a person who is exempted from income-tax merely because his income is just below the standard.

There are other matters which I would like to place before this House. For instance to-day we take Rs. 30 from an honourable member of this House. To-morrow his income may be such that he may

have to be exempted from income-tax. Surely, we shall have to give back his money, but how shall I do that unless we make provision for it. Honourable members will, I think, not consider that merely because we are asking them to give us the power of exemption, there is going to be an encroachment upon the rights and privileges of this House. I submit, Sir, that in administration of this Act, a taxation Act in particular, a certain degree of elasticity should be given in order that hardships might be avoided. I would like to give to this House certain instances. Take another Finance Act, namely, the Indian Income-tax Act. If the honourable members will see section 60 of it, they will find that this gives far more drastic power to Government than we propose to take. If in an Income-tax Act, a Government which may legitimately be called by the Legislature irresponsible to that Legislature can be given powers for a proper administration of the Act, which are far more drastic than we propose to take, I see no reason why when you have the Executive entirely under your control and when the Executive can be made to relinquish office, when it is possible to pass a vote of censure against it, you should not give to that Executive those powers. To section 16 of the Bengal Motor Vehicles Taxation Act, the same applies. By section 8 (2) of the Bengal Amusements Tax Act passed by this House, you have given similar powers. At that time you raised no such point, and actually the point that has been raised in connection with this Bill has been raised under a misapprehension.

May I take another Act and I call the attention in particular of the honourable members of the Opposition who belong to the Congress party to section 8 of the Central Provinces and Berar Finance Act, which was a Finance Act too. The Finance Act was passed by the Congress majority over there giving the Executive complete powers to frame rules, and I submit that this is a proper delegation of powers to Government by the Legislature.

Mr. RANAJIT PAL CHOUDHURY: We learn from experience.

The Hon'ble Mr. H. S. SUHRAWARDY: It is no question of experience. It is a question of carrying on the purposes of a Act properly. And I do submit, Sir,—I do not appeal to the members of the Opposition, I shall merely point it out to them,—but I think I am entitled to appeal to those members who have always been supporting Government that, where the Congress party in its own province can vest its own executive with these powers, the supporters of this Government should not show any hesitancy or want of confidence by refusing to vest the necessary power in the hands of this Government a power which, on no account, is likely to be abused. If honourable members had pointed out to me how it could have been abused, when

it could have been abused, and what steps we have taken to abuse it, that would be quite a different matter. But there is not even a suspicion which has been voiced. And under those circumstances, Sir, if there has been nothing in the tradition of this Ministry to flout the opinion of the Legislature or to go against its opinion, I submit, Sir, that there is no reason why honourable members of the Legislature or those honourable members of the party who have all along supported the Ministry, should not continue to show their mark of confidence in this Government by vesting it with this authority.

Sir, I desire to urge once more not to delay the passage of this Bill any longer. We cannot exempt those persons who are entitled to exemption, persons who should be exempted, as long as this state of affairs continues. As a matter of fact, Sir, those deserving persons are suffering. Sir, when the rules are framed, they will be published in the Gazette. If such published rules are not liked by the members, if they encroach upon the rights and privileges of the House, then, Sir, I am prepared to have those rules discussed on the floor of this House. This is an offer, Sir, that I make to this House.

Dr. RADHA KUMUD MOOKERJI: Give him the benefit of doubt. (Laughter.)

The Hon'ble Mr. H. S. SUHRAWARDY: Well, Sir, let us now get on with the work and let us get on and frame those rules and allow the taxation to be realised, and let persons who need exemption be exempted, so that justice may be done as between party and party.

Mr. PRESIDENT: The question before the House is: that the Bengal Finance (Amendment) Bill, 1940, be taken into consideration.

The House then divided with the following result:—

AYES—24.

Ahmad, Khan Bahadur Naziruddin.
Ahmed, Mr. Mesbahuddin.
Baksh, Mr. Kader.
Chowdhury, Khan Sahib Abdul Hamid.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Mr. Hamidul Huq.
Chowdhury, Khan Bahadur Rezzaqul Haider.
Cohen, Mr. D. J.
D' Rozario, Mrs. K.
Hosain, Khan Bahadur Saiyed Muazzamuddin.
Hossain, Mr. Latafat.
Hunter, Mr. H. C. A.
Karim, Khan Bahadur M. Abdul.
Khan, Khan Bahadur Muhammad Asaf.
Laidlaw, Mr. W. B.
Molla, Khan Sahib Subidali.
Momin, Begum Hamida.
Ormond, Mr. E. C.
Rahman, Mr. Mukhlesur.
Rashid, Khan Bahadur Kazi Abdur.
Ross, Mr. B.
Roy, Rai Bahadur Radhica Bhusan.
Roy Chowdhury, Mr. Krishna Chandra., O. B. E.
Scott-Kerr, Mr. W. F.

NOES—19.

Banerjee, Rai Bahadur Keshab Chandra.
Bose, Rai Bhaadur Manmatha Nath.
Chakraverti, Mr. Shrish Chandra.
Das, Mr. Lalit Chandra.
Datta, Mr. Bankim Chandra.
Datta, Mr. Narendra Chandra.
Dutta, Mr. Kamini Kumar.
Kabir, Mr. Humayun.
Maitra, Rai Bahadur Brojendra Mohan.
Mookerjee, Mr. Naresh Nath.
Mookerji, Dr. Radha Kumud.
Pal Choudhury, Mr. Ranajit.
Poddar, Mr. H. P.
Roy, Mr. Amulya Dhone.
Sanyal, Mr. Sachindra Narayan.
Sarker, Rai Sahib Indu Bhusan.
Sen, Rai Sahib Jatindra Mohan.
Sinha, Rai Bahadur Surendra Narayan.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.

Mr. PRESIDENT: Order, order. The House has divided.

The Ayes being 24 and the Noes 19, the motion is carried.

(After a pause.) The Council stands adjourned till 2-15 p.m. on Friday, the 1st March.

Adjournment.

The Council adjourned till 2-15 p.m. on Friday, the 1st of March, 1940.

Members Absent:

The following members were absent from the meeting held on the 29th February, 1940:—

(1) Mr. Nur Ahmed.
(2) Mr. Moazzemali Chowdhury.
(3) Mr. Humayun Reza Chowdhury.
(4) Khan Bahadur S. Fazal Ellahi.
(5) Khan Bahadur Alhadj Khwaja Muhammad Esmail.
(6) Mr. Kanai Lal Goswami.
(7) Nawabzada Kamruddin Haider.
(8) Mr. Mohamed Hossain.
(9) Khan Bahadur Syed Muhammad Ghaziul Huq.
(10) Khan Bahadur Maulvi Muhammad Ibrahim.
(11) Alhadj Khan Bahadur Shaikh Muhammad Jan.
(12) Maulana Muhammad Akram Khan.
(13) Mr. H. G. G. Mackay.
(14) Rai Bahadur Satis Chandra Mukherji.
(15) Khan Bahadur Ataur Rahman.
(16) Khan Bahadur M. Shamsuzzoha.

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BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Buildings, Calcutta, on Friday, the 1st March, 1940, at 2-15 p.m. being the eighth day of the First Session, pursuant to section 62(2)(a) of the Government of India Act, 1935.

Present:

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Government grant to Visva-Bharati.

40. Mr. RANAJIT PAL CHOUDHURY (on behalf of Mr. Kamini Kumar Dutta): (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state if it is a fact that the Government of Bengal in the Department of Education have issued instructions to the Director of Public Instruction not to accord administrative sanction to some of the grants to educational institutions which were passed by the Assembly during the last Budget Session?

(*b*) Is it a fact that the grant made in favour of the Visva-Bharati, Santiniketan, for educational activities has not yet been accorded administrative sanction with the result that the money could not be utilised by the said institution? If so, will the Hon'ble Minister please state the reasons for this step in the case of the Visva-Bharati?

(*c*) In regard to what other items under this head administrative sanction has been withheld although the Budget allotments relating thereto had been passed by the Assembly?

(*d*) Is it true that administrative sanction to grants made to the educational institutions referred to in paragraph (*a*) above has been withheld pending final decision in regard to them by the Muslim League Party in the Assembly?

(*e*) If not, will the Hon'ble Minister please state the reasons why the sums of money budgeted for and granted by the Assembly as far back as March, 1939, should not have been made available yet to the educational institutions concerned?

(*f*) Will the Hon'ble Minister be pleased to state the number of Hindu educational institutions which have been deprived of the grants approved by the Assembly during the last Budget Session, on account of the withholding of administrative sanction thereto?

(*g*) Has any Muslim educational institution suffered in a similar manner? If so, what is their number?

(*h*) Will the Hon'ble Minister please state if the money sanctioned by the Assembly during the last Budget Session in favour of the *Azad* newspaper has been permitted to be drawn by its Editor, Maulana Akrum Khan? If so, when was the money drawn by him?

MINISTER in charge of the EDUCATION DEPARTMENT (the Hon'ble Mr. A. K. Fazlul Huq): (*a*) Yes.

(*b*) The payment of the grant has since been approved.

(*c*) In the matter of capital grant to the Burdwan Raj College, the grant has since been paid.

(*d*) No. The suggestion contained in the question is absolutely groundless.

(*e*) The grant to the Burdwan Raj College could not be paid until the plans and estimates for the buildings were approved.

(*f*) and (*g*) It is not correct to suggest that any institution has been deprived of the grants approved by the Assembly but, for reasons mentioned in the reply to (*e*), it was not possible to give the grant to the Burdwan Raj College.

(*h*) Yes, in May, 1939.

Reading of the Quoran in maktabs.

41. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister in charge of the Education Department kindly state—

(*a*) if he is aware that the reading of the Quoran was compulsory in all maktabs before the advent of the present Government in Bengal;

(*b*) if he is aware that it is no longer compulsory for Muslim boys and girls to learn the reading of the Quoran in the free primary schools;

(*c*) if he is aware that Muslim guardians have in consequence become very apprehensive that their wards will not have the foundation of religious education properly laid if arrangements be not made for teaching of the Quoran in free primary schools where Muslim pupils get education; and

(*d*) what is his policy regarding religious education of Muslim boys and girls in free primary schools?

The Hon'ble Mr. A. K. FAZLUL HUQ: (*a*) Yes.

(*b*) This is not correct. In accordance with the revised primary curriculum which has been introduced from this year in districts where education cess has been imposed, religious education must be imparted as a compulsory subject in all free primary schools and the syllabus in religious instruction for Muslim boys and girls includes the reading of the Quoran.

(*c*) This is not correct.

(*d*) To see that adequate facilities are provided for the purpose.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Have teachers been appointed for the teaching of Quoran to Moslem boys?

The Hon'ble Mr. A. K. FAZLUL HUQ: This is a matter for the district school boards and the honourable member himself is a member of one of the most important district school boards in the province. He is better aware than I am as to what is being done.

Banning of the film "Juarez".

42. Mr. LALIT CHANDRA DAS: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state if it is a fact that the film entitled "Juarez", produced by Warner Brothers of America, has been banned in the Province of Bengal? If so, was it the Bengal Board of Censors who has censored the film?

(*b*) Which members of the Board were present at the exhibition of this film after which the banning of "Juarez" was recommended to the Government?

(*c*) Is it a fact that "Juarez" depicted stories as to how the Mexicans won their "Independence"?

(*d*) Was it banned from the 26th January last?

(*e*) Is it not a fact that "Juarez" was shown for several weeks before crowded audiences in the "Light House" in Calcutta?

(*f*) Is it not a fact that "Juarez" had not a single scene which tended to immorality or obscenity?

(*g*) Has "Juarez" been banned in any other province in India? If so, where? Does the Government propose to remove the ban now?

(*h*) Will the Hon'ble Minister be pleased to state on what grounds "Juarez" was banned by the Government from being shown any longer in the Province of Bengal?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*), (*c*) and (*f*) Yes.

(*b*) The film was examined by a Sub-Committee of the Board. I am not prepared to give the names of the members of the Sub-Committee.

(*d*) It was banned by Government from the 24th January, 1940, which is the date of the order.

(*e*) It was shown only for a week.

(*g*) I am not aware whether the film has been banned in any other province. Government does not propose to remove the ban in Bengal.

(*h*) It depicted, *inter alia*, an armed revolution against an established form of Government—a theme which appeared unsuitable for the impressionable young minds of this Province at the present time.

Remission of rent in certain parts of Chittagong.

43. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN (on behalf of Mr. Nur Ahmed): (*a*) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state if a deputation consisting of Mr. Chang Thaung Chowdhury and others waited upon the Collector of Chittagong at Cox's Bazar in December, 1939, and placed before the Collector their prayer for remission of rent and suspension of education cess on the ground of utter devastation caused in Cox's Bazar by the floods of last August?

(*b*) If so, has the Government taken any measures up to this time with a view to giving necessary relief to the flood-affected areas of Cox's Bazar and other parts of Chittagong? If so, what are they? If not, why not?

(*c*) Will the Hon'ble Minister be pleased to state what relief he has granted up to this date to the flood-affected areas of Chittagong? Will he be pleased to give a detailed account of the same?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) A deputation met the Collector, as stated but their claim was for lump remission of revenue in Ramu and Teknaf not because of the unusual flood, but because their lands were still being depredated by wild elephants as well as by saline water.

(*b*) Remission or partial remission of rent or revenue and in some cases suspension of revenue has been allowed. Education cess has been remitted according as rent or revenue has been remitted when asked for.

(c) The following relief has been given in the flood-affected areas of the district:—

(1) A sum of Rs. 2,000 has already been distributed as loans under the Land Improvement Act and a further sum of Rs. 2,900 is being distributed under that Act.

(2) Rs. 1,20,250 distributed as loans under the Agricultural Loans Act.

(3) Rs. 11,300 distributed as gratuitous relief.

Non-official Resolutions.

Mr. LALIT CHANDRA DAS: I beg to move that this Council is of opinion that all the political prisoners, now in jail, should be released immediately and unconditionally.

Sir, let me at the very outset remind Sir Nazimuddin that on 13th September, 1938, when negotiations with him for the release of political prisoners fell through, Mahatma Gandhi wrote to him saying "my measuring rod will always be my letter of the 13th April, 1938."

Sir, in that letter, Mahatma Gandhi suggested with regard to the convicted political prisoners that the ailing prisoners should be discharged forthwith irrespective of their terms of imprisonment, that those who had less than 6 months to serve should be discharged forthwith, that those who had 18 months or less but over 6 months to serve should be discharged within 3 months and lastly that those who had longer terms than 18 months to serve should be discharged within one year at the most.

In that letter, Gandhiji also assured the Government that he interested himself in their cases on the strength of their disavowal of violence for the attainment of India's freedom. Therefore, for his own satisfaction he discussed the question with them and whilst they did not want to make any statement for the sake of furthering their release, they assured him that they had no faith in violence for securing India's freedom. This, I request Sir Nazimuddin particularly to note.

Since that letter, much water has flowed down the river Ganges. The most important point in it was the fixing of time-limit for their release which Sree Subhas Chandra Bose also as representing Mahatmaji laid stress on in course of his negotiations with Sir Nazimuddin. All other conditions sought to be imposed by the Government did not much matter.

Sir, on that point, I may say, on that crucial point the Government did not yield. The negotiations fell through. The Government enunciated its policy of release of convicted political prisoners and issued a resolution on the subject on the 25th September, 1938, laying

down that Government intended to release forthwith the terrorist convicts suffering from serious and continued illness and to release those convicts who were not guilty of acts of murder and serious violence and whose period of sentence remaining to be served was not more than 18 months and to release those who may be recommended to be released by the Advisory Committee to be formed and with whose recommendations Government might agree.

As you know, Sir, the Advisory Committee was appointed in which among other members, myself and the Leader of the Opposition in the Assembly Mr. Sarat Chandra Bose were taken in.

Sir, we worked so long as we could. We worked from 4th January, 1939, to 14th May, 1939, when we both resigned after effecting an unconditional release of 146 political prisoners out of a total of 239 cases which were placed before the Advisory Committee. We resigned when we found we could work no longer with usefulness as our views for wholesale, unconditional and immediate release of all political prisoners differed fundamentally and did not find favour with the majority of our colleagues of the Committee.

Sir, the prisoners got an absolute assurance, often repeated, that subject to their subscribing to non-violence Mahatma Gandhi would strain every nerve to secure early discharge of every one of them. Prisoners subscribed to non-violence. Gandhiji did everything in his power to get them released by the 13th April, 1930. But he failed. The bent of the majority of our colleagues in the Advisory Committee was against wholesale and unconditional release for which there could be no cause of surprise if one would look to the composition of the Committee. It was so designed that unanimity was impossible. Can it, therefore, be a matter for surprise if the prisoners in despair went on hunger-strike to draw public attention to their cases?

The hunger-strike commenced on the 7th July last and lasted till 3rd August. Since then there were a few more releases and now I believe there are 87 political prisoners within the prison bars. We hope, however, that Sir Nazimuddin will give the exact figure.

The Government reviewed the question of release of the convicted politicals and the work of the Advisory Committee in a resolution, dated the 13th November, 1939. Among other things, it was pointed out that at no time did Government give any undertaking that all releases would be unconditional or that clemency would be shown in all cases. Sir, let me say here at once that nobody at any time credited the Government with that wisdom.

The resolution referred to previous communiques, particularly of the 25th September, 1938. Sir, it is against this policy of the Government as embodied in it that I have tabled my resolution which stands for wholesale, unconditional and immediate release of all the political prisoners.

Sir, before I enter into the merits of this resolution, I desire to point out very briefly that the Government failed to carry out even its own promises. Though repeatedly asked the Government failed to release all the political prisoners who were suffering from serious and continued illness.

For example, prisoners Ambika Charan Chakrabarti and Purnendu Das Gupta have not yet been released by the Government on this or that pretext although they are suffering for long from serious illness.

Often times, the releases of the prisoners have been more or less a matter of lottery. For instance, the Court recommended for mercy in the case of Fakir Sen, Ranadhir Das Gupta, Subodh and Sukhendu of the Chittagong Armoury Raid Case because of their extreme youth. The first three got off all right, but the last, Sukhendu Dastidar, though at the time of his arrest he was only 14 years of age, is still rotting in jail. By the way, I may say he served 10 years and his jail conduct is good.

Take some more instances. Gagan Chandra De and Manindra Chandra De who were convicted in the Bathua Dacoity Case and were sentenced to transportation of life were released unconditionally while the prisoners of the same case, Mukunda Ranjan Chakravarty, Harihar Datta, Monmohan Saha and Priyoda Ranjan Chakravarty could not share the same order, although their cases are better than those of Gagan and Manindra inasmuch as their conduct in jail was throughout good. I can multiply instances. But I am here to-day to point out that the policy of the Government as laid down in their resolutions is mediæval and reactionary and should be replaced by a policy of amnesty to all political prisoners, irrespective of any question of the enormity of the crime, the age of the prisoner, whether a tool or a principal, the duration of the sentence or the imposition of any condition and the like.

Sir, the world is traversing the track of centuries in a year. Everything is changing. But Sir Nazimuddin does not change. He remains a no-changer with a policy devoid of imagination, wooden, and antiquated.

The prisoners saw all these. They went on hunger-strike on the 7th July, as I said, to rouse public conscience and to focus public attention to the necessity of urging the Government to release them. In this they succeeded. The public conscience was roused.

Sir, since that hunger-strike, public meetings were held daily throughout Bengal demanding their wholesale and unconditional release. India watched with bated breath the progress of that hunger-strike. The agitation for their release was carried on with an intensity of purpose never before equalled.

The Government was for the moment moved. The Hon'ble Mr. Fazlul Huq grew anxious to save what he described as very

valuable lives. Mahatmaji sent his Secretary. Dr. Rajendra Prasad, the President of the Indian National Congress, saw the Home Minister as well as the prisoners. The Bose brothers did likewise. All that was possible was done both by the Press as well as by the public to convince the Government that all desired the unconditional release of all political prisoners then in jail.

The prisoners, satisfied that the country is at their back and anxious to secure their release and hoping that their efforts would succeed, gave up their fast at which even Sir Nazimuddin rejoiced promising that there would be no victimization because of the hunger-strike.

Since yours is admittedly a Government responsible to the people, you are bound to give considerable weight to public opinion which unmistakably demanded their release.

But, Sir, Nazimuddin is of a different make. An impression got round that these prisoners would be released in the course of a couple of months. Sir Nazimuddin promptly contradicted the rumour. Lest agitation for their release is renewed, he promptly took advantage of the Defence of India Rules and prohibited all public meetings for a period of six months from 6th September last, with the result that all agitation for the release became quiescent. Sir, I venture to say that under the circumstances, the responsibility of the Legislature to get them out is imperative.

Sir, the rules were due to expire on the 5th March next, but the Government of the day has re-issued the notification prohibiting all public meetings for six months more, i.e., from the 5th March next. The responsibility of the Legislature to call upon the Government to set the prisoners free has, therefore, increased tenfold.

Such a retrograde step is unknown in other parts of India. Even the Bureaucracy which supplanted the Congress Governments did not issue any such notice. It is Sir Nazimuddin's special.

Sir, there is another special specific of Sir Nazimuddin and that is reasoned clemency, an expression which has found its place in the resolution.

What is reasoned clemency put side by side with amnesty to all political prisoners? I ask, was it reasoned clemency when Mr. Lloyd George shook hands with De Valera at a time when his hands were reeking with blood? Was it even a case of examination of individual cases when De Valera and his associates were set free?

Sir Nazimuddin must have read Reuter's message sent from Dublin on the 2nd December last from which it is gathered that the Government of Eire ordered the release of 54 republican prisoners who were imprisoned for serious violence attended with murder and for treasonable action.

I ask, was it reasoned clemency again or an examination of individual cases when the Tharawaddy rebels, responsible for several deaths, were all unconditionally released by the Burma Government?

Sir, the Hon'ble Mr. Jinnah in his address at the Muslim League meeting at Patna last year referring to the Arabs observed: "They (the British) call them murderers and rebels whereas they are martyrs and patriots." Both the Hon'ble Mr. Fazlul Huq and the Hon'ble Home Minister were there then. Did they or any of them feel scandalized by such an observation? Sir, let me here say that by an executive order of the High Commissioner of Palestine, those rebels were released quite recently while negotiations for the grant of self-government to Palestine were proceeding.

I ask in all seriousness, in what way the Chittagong Armoury Raid prisoners are more terrible or more dangerous and even worse than Mr. De Valera and his associates, the Tharawaddy prisoners, or the Arabs?

Sir, I firmly believe in the cult of non-violence, but the cult of the members of the Coalition Party or the European Group will admit of no such belief. While it is possible for us to take a detacher view, the Government of Sir Nazimuddin draws only a thin line of difference between a political crime and an ordinary one. How is it that they cannot see that while in the case of an ordinary crime it is all a case of sordid greed, lust and gain for oneself, in the case of the former such a motive is absolutely non-existent? However deplorable, however mistaken their acts were, there is no gainsaying the fact that they were actuated by love of the country. The question of examination of cases or of enormity of the crime is quite inadmissible when the time is ripe to consider their cases for release.

Sir, they are in fact prisoners of war. The old order has changed yielding place to the new. The policy, therefore, of the Government should be the granting of amnesty to the political prisoners. What a pity, that Sir Nazimuddin, trained in the Imperialistic rule under the ægis of his bureaucratic masters of pre-reform days, should be talking of reasoned clemency, examination of individual cases, enormity of the crime, and so on and so forth—as if it was ever the case of anybody that no serious crime or murder was committed or that they were not tried and convicted in a court of law! Faced with a similar situation, would he have talked of reasoned clemency, examination of individual cases, enormity of the crime, or the age of the prisoner, if instead of being Hindus they would have been 99 per cent. Muhammadan political convicts? (Cries of "Hear, hear" from Congress members.) Sir, in that event, I venture to predict that his *gadi* would not be worth even a day's purchase. (Loud applause from Congress Benches.)

Sir, the imposition of conditions is another fad of the Government. The prisoners pledged non-violence and they pledged their word of

honour to Gandhiji. It touches their self-respect and raises a question of disbelieving Gandhiji and also themselves. Sentiments play a great part in politics and in the actions of men. If they will not respect their word to Gandhiji, how fantastic it is to believe that Sir Nazimuddin will give higher value to the word they would give to Government. It is because they look upon their word given to Gandhiji as sacrosanct that they refuse to repeat the same to others. And then has anything untoward happened since many of them came out of jail unconditionally? Why create unnecessary barriers to their path of release? Trust begets trust, and I have no doubt that clemency to be whole-hearted should be unconditional. If 146 political prisoners coming out of jail unconditionally can keep the peace, will the Hooghly be set on fire if the rest come out? The answer must be an emphatic "No".

Sir, the Unity Conference presided over by the Hon'ble Mr. Fazlul Huq is now being held. A reasonable atmosphere should be created for its success. Let me say that there is a great sore in the minds of the Nationalists in Bengal that all the political prisoners have not been set free. Will Sir Nazimuddin not pave the way for a rapproachement by revising his policy and making it accord with public sentiments, so repeatedly expressed in public meetings?

I do not forget that there is war. But the war is 10,000 miles away. Bengal is perfectly calm except such war conditions as are sought to be created by the Government by internments, exteraments, arrests, and imprisonment of Labour leaders, *kisan* workers, student leaders and some Congressmen. This is all wrong. The war is raging and yet Ireland released 54 politicals on 2nd December and the High Commissioner of Palestine did likewise by setting free the Arab rebels. Why should it be different in Bengal?

With these words, Sir, I commend my resolution for the acceptance of the House.

Mr. PRESIDENT. Resolution moved: that this Council is of opinion that all the political prisoners, now in jail, should be released immediately and unconditionally.

The Hon'ble Khwaja Sir NAZIMUDDIN: Mr. President, Sir, this is a subject which has been discussed so often in this House and in the other place that I feel it will be taking unnecessarily the time of this House if I were to repeat all the arguments and all the grounds that are in support of not releasing all the political prisoners immediately. Actually my friend, the mover of this resolution, has placed the case of Government so ably and so well that I feel that I have got nothing more to add. He has pointed out that as far as Government are concerned, they have got a definite policy laid down and approved by the Legislature, and that according to that policy Government action has

been taken. Therefore, there is no new ground that has been placed before this House which will justify any modification of that policy. All that he has said in support of his motion has been said before Government enunciated their policy. Therefore, as nothing new has been said and as the mover has been kind enough to read out all the literature on the subject, I feel I should not bore this House by repeating them.

The important point to remember is that at no time Government agreed to fixing the time-limit for release of the convicted prisoners, at no time Government agreed to the wholesale release of political prisoners. They have maintained that owing to the special circumstances under which those persons were convicted there were grounds for clemency after individual examination. They carried out that individual examination by means of a committee of the representatives of the two Houses and naturally having the full confidence of the two Houses on that committee. If I may for a little while digress and point out the part played by the honourable the mover of this resolution, then it will be obvious how the thing was done. Mr. Lalit Chandra Das who was a member of the Committee takes the credit for having effected the release of 139 convicts. They were those in whose cases even without his presence the members of the Committee after the individual examination would have recommended release and Government would have agreed with them. As soos as he came to difficult cases where he knew that if he remained in the Committee, as a conscientious member of the Committee he would have to accept the principle of individual examination and he would have found that it would be impossible to recommend their release, what did he do? He immediately submitted his resignation, and ran away knowing fully well that if he remained he would have to refuse the release. That is what Mr. Lalit Chandra Das, the mover of the resolution, himself did. How can he say what the Committee would have done? Before these cases were presented to him, how could he say that his advocacy would not have moved the members of the Committee? He knew that these were bad cases. He also knew that as a responsible member of this House, and as a member of the Committee he could not recommend their release. So, he adopted the course of resigning and not taking the responsibility for refusing the release. He now gets up and claims that he has effected the release of 139 prisoners and that since he resigned the Committee refused to recommend the release of any more individuals.

Mr. RANAJIT PAL CHOWDHURY: Is that your presumption?

The Hon'ble Khwaja Sir NAZIMUDDIN: It is obvious.

Then, we come to a position which is the most important one. Government appointed a responsible Committee in which there were

only the members of the Legislature excepting one official who was there to assist the Committee in drawing up their report and practically in 80 or 90 per cent. of the cases we have carried out the recommendation of the Committee. In certain cases we have gone beyond what the Committee have recommended. In other cases, we have not carried out fully the recommendations of the Committee, but said that we reserve to ourselves the final decision on them. When we say that we reserve our final decision, it means that we must take some time in coming to a final conclusion. Therefore, the important point is that Government gave effect to practically 80 or 90 per cent. of the recommendations of that Committee. The Committee did not recommend unconditional release in a large number of cases. The Committee recommended conditional release in a large number of cases which the Government have accepted but unfortunately some of them perhaps deliberately and some of them under the influence of those who have not been given unconditional release have refused to accept that offer of conditional release, hoping that if they all organise themselves, then the chance of all of them getting unconditional release is greater. The point is that out of 89, 87 or 86, I am not sure of the figure at the present time, there are 35 who can get away immediately if they accept conditional release the terms whereof have been considerably modified and are not what others have accepted before to obtain their conditional release.

Dr. RADHA KUMUD MOOKERJEE: What are the conditions?

The Hon'ble Khwaja Sir NAZIMUDDIN: Unfortunately, the file is not with me now. I will just give a list of the conditions. The condition is this that the prisoner will have to give an undertaking that he will neither take part in terroristic activities nor be a member of any organisation that is taking part in terrorist activities, nor will he have anything to do with any person or persons who are employed in terrorist organisations or activities. That is all. The mere giving of an undertaking on his own honour that he will have nothing whatsoever to do directly or indirectly with terrorism and violence. Apart from that no other undertaking is asked for from the political prisoners and they have refused even that. It means that only 45 or 50 will remain whom we are not giving any kind of conditional release and they are the people about whom, except in one or two cases, the Committee themselves have said "no release".

In this connection, I would like to mention one person in whose case we have not yet been able to give effect to the recommendation of the Committee, but to a large extent through no fault of our own. His name has already been mentioned by the Hon'ble mover of the resolution—Ambica Charan Chakravarti, one of the leaders of the Chittagong Armoury Raid. In his case, the Committee unanimously

recommended his unconditional release. Government have modified that to the extent that they would give him conditional release, provided he goes to a sanitarium as he is suffering from T.B. and they thought that a person who was suffering from T.B. should not be allowed to roam about and the appropriate place for him was a sanitarium. We tried our best to get him admitted in all the T.B. sanitaria of other provinces apart from those in Bengal and the extraordinary thing is that every province has refused to have that gentleman there. In one particular place, I exercised my personal influence and even there I failed to get a seat for him. (A VOICE: What are the reasons?) The reasons are obvious. In spite of all that, we have decided that we will send him to Kurseong as we cannot get him admitted to any other sanitarium elsewhere.

Now, the mover of the resolution cited a few cases of differentiation between the various persons who took part in the Bathua Dacoity. The honourable member knows very well that the reason why we made differentiation was that those persons who are released were merely the tools though they participated in dacoity, but those whom we have not released are the brains, organisers and the persons who are really responsible, for that crime. If they are released at the present time, they will again take to organisation or planning either for a similar action or for some equally dangerous movement.

Mr. RANAJIT PAL CHOWDHURY: Even after the declaration of Mahatma Gandhi?

The Hon'ble Khwaja Sir NAZIMUDDIN: That declaration is not worth the paper on which it is written. Unfortunately, I have not got it. If the honourable member will read it, he will understand the truth of my remark. What is more, every one of the prisoners individually has not given the undertaking, only one or two of them have said that. I do not want to make these things difficult by repeating the details. I only want to say this that after the treatment which Mr. Gandhi himself has received in Bengal,—a practical demonstration of the non-violent character of the people of Bengal—I do not think he will still persist in asking for the release of these prisoners.

Therefore, I maintain, Sir, as far as these persons are concerned, it is not advisable under the present circumstances, apart from all other grounds, to make any change in the policy of Government. At least 40 or 50 per cent. of those whom we have released are taking part in active politics, not Congress politics but other politics and instead of settling down to the life of an ordinary citizen trying to earn a living for themselves, they are continuously busy in going about the country in pursuance of some definite plan of action. This is an important point. It is not that they are merely holding meetings of the Congress and preaching Congress doctrines. No, they are very

different from Congress, though they claim to be in the Congress. They are members of the Communist Party, of the Anusilan Samity and of the Jugantar Party, although they claim to be in the Congress. As I have said, these people have a separate organisation where they discuss separate plans. If they have given up other activities and become only members of the Congress, why do they keep separate organisation and hold separate meetings? These are things which cannot be explained. As I have said, at least 40 or 50 per cent. of the released convicts and detenus are still most active but not in Congress politics. Some of them lead processions with red flags, hammer and sickle and some are engaged in creating disaffection among the masses by misrepresentation of facts and are all the time bent on having some kind of disturbance or trouble. This is the position and I feel, Sir, that Government will not be right in taking any risk at the present time when there is a war on. As there is an emergency, I feel that we have no option but to oppose the motion.

With these words, I oppose the motion.

Mr. SHRISH CHANDRA CHAKRAVERTI: Mr. President, Sir——

The Hon'ble Khwaja Sir NAZIMUDDIN: On a point of order, Sir. It becomes rather very difficult for me if I have got to reply many times. It is generally the practice, Sir, that the Minister meets the points of all the previous speakers on a particular subject after the different speakers have finished. But in this case, Sir, I waited and, seeing that no other member other than the mover of the resolution spoke after him, got up and gave my replies, at the wish of the Chair.

Mr. PRESIDENT: Yes, you are quite right but in this case I have allowed Mr. Chakraverti to speak. In any case, you have got the right of replying again after he has spoken.

Mr. SHRISH CHANDRA CHAKRAVERTI: In that case, Sir, I shall not speak if that be your desire.

Mr. PRESIDENT: My desire is to call upon you to speak, and I have already done so.

Mr. SHRISH CHANDRA CHAKRAVERTI: Sir, I am astonished to find that the Hon'ble the Home Minister has brushed aside the arguments of my honourable friend, Mr. Lalit Chandra Das. He has not answered any of the points of the mover in his learned discourse about these political prisoners. He has absolutely run away from the point which the honourable mover wanted to impress on this House. The fundamental point is: whether these political prisoners are criminals

in the ordinary sense of the term. The mover throughout wanted to impress that these people are not criminals, as the Hon'ble Home Minister wants to suggest. The question of the examination of the case of every prisoner, the gravity of the offence, the particular kind of offence, the section under which he has been charged, whether he has been openly tried,—all these questions could come in only if they were ordinary criminals. But here the whole question with regard to these persons is that we must examine their motives first before we can place them in the category of ordinary criminals, for nowhere in the civilized world these political prisoners are placed in the same category. Even all the authorities on crimes and criminals agree on this one point, viz., that political prisoners are never to be placed in the same category as that of ordinary criminals. Had they been ordinary criminals, the arguments of the Home Minister would have been quite right. When he himself admits that they are not ordinary criminals but political prisoners, all the other arguments which have been advanced by him fall to the ground.

There is another point, and it is this. If this fundamental proposition is accepted, then there cannot be any case against them now. When they committed the offence they did not commit it against the present Government which did not exist then. Now, this present Ministry is elected by popular votes and they are popular ministers, and I may even go so far as to say that this is a national ministry. If it is a national ministry, how are they justified to keep or detain these prisoners in prison any longer because they have got the reins of Government. If you release them and if they commit any offence against the present Government, certainly you can deal with them in anyway you like. But why should the Hon'ble Home Minister anticipate a lot of things against them that when they come out, they will join the Congress Party, they will do this and that. I think this is simply begging the whole question.

So, in these circumstances, I appeal to the Hon'ble Home Minister to realize that when he uses the term "political prisoners", he should not place them in the category of ordinary criminals. I would also appeal to the members of this House to consider this question in that aspect, viz., that if they are not ordinary criminals, the ordinary criminal laws should not be enforced against them at least by the present Government.

Dr. RADHA KUMUD MOOKERJI: Sir, I wish to apologise to the House that I came late and found that this question was being dealt with by the Hon'ble Home Minister. I do hope, Sir, that, if the Home Minister finds any new facts in my speech to which a reply is due, you will be pleased to give him the opportunity to reply.

Sir, we have always a very great respect for the Hon'ble Home Minister for his administrative efficiency and experience, but I did not

know that he could also claim some distinction in the art of advocacy. I am afraid, however, Sir, that the brief he has taken on behalf of the Government is not a very sound one. And I am afraid he has got a very bad case to plead for. Sir, I wish to raise the discussion to a higher plane. I want to appeal to the Government on grounds of higher statesmanship. After all, the present Government must remember, as has been just now explained by the preceding speaker, that they have inherited certain legacies and that all that heritage is not worth conserving and to be hugged at any cost. One of these difficult legacies is this legacy of a number of political prisoners. Upto now, the present Government have really vindicated their national character by releasing, I should say, about 99 per cent. of the total political prisoners. They have taken courage in both hands and they can justly claim the credit of allowing the release of about 99 per cent. of those political prisoners. Of course, I am not very accurate as to my figures. I believe, out of a total of released persons numbering more than 3,000, there remain now only less than a hundred and of these also about 50 per cent. cases are even now under the consideration of the present Government. So, the position is this that the present Government has already advanced very far in the direction pointed to by enlightened statesmanship. We are all anxious to inaugurate a new era of peace and reconciliation, so that in this new atmosphere the democratic institutions of the country may be properly developed. Why, therefore, cling to all these old legacies, which were related to the old conditions that have passed away? So, the simple argument that I address to the present Government is this. Why are you afraid of about 50 youths of the country? It is not at all worthy of an august Government, a powerful Government, to be in any way affected by the cases of only a handful of political prisoners about whose mentality also they have got proofs, viz., that there has been a radical change in their psychology, in their outlook on life and in their mentality. And I believe it is because Mahatma Gandhi had been convinced of a change of heart on the part of these political prisoners that he took up the cause of the release of political prisoners as his own, without any reservation. Perhaps the Home Department is taking a very limited view of the matter and perhaps they are taking the view that because they are directly responsible for the peace and tranquillity of the realm, therefore they must be very very cautious in all their undertakings. But I should like to make an appeal to them. They have already gone far enough and yet nothing untoward has happened. Although the Hon'ble Home Minister says that he has got evidence that all is not well even with these released people, I should think that, after all, the Government must admit that they are acting within the limits of the existing law. And if anything untoward happens anywhere, there is the long arm of the law to be put into operation and all their activities, which appear to be not desirable, might be stopped at any moment. So, I should think that we should give them the benefit of doubt. After all,

some of them are not used to the rigours of jail life and these rigours might have unhinged their mind. What I want to say to the Hon'ble Home Minister is that he should be a student of Psychology and, if possible, of Psycho-analysis also. There is something like a hysteria produced in these prisoners and some of them might perhaps be suffering from some kind of mental disturbance caused by life under abnormal conditions. And so I say that the Government must rise to the level of the highest statesmanship that is called for in order to meet the exigencies of this situation. It will not be at all dangerous for the Government to release only a handful of prisoners. The present Government could be trusted to possess the necessary resources by which all nefarious activities could be nipped in the bud. So, why are they afraid of releasing only about 50 prisoners when they have released thousands? Why not by one stroke of the pen end this chapter? I should admit that it is an inglorious chapter in the modern history of Bengal. But let that chapter be closed. Why should Government be sticklers in forms? Why should you be anxious for the technicalities of law and even for guarantees and assurances which perhaps may not have as much value as one might attach to legal assurances? In any case, you have to depend upon these prisoners, even if they give the word. So I say, why talk of this kind of commercial considerations? There must be some sort of a give-and-take policy. This is a big Government and on grounds of highest statesmanship these things that concern the old regime should be treated as dead and gone for ever. It must not be forgotten that the crimes were committed as a sort of protest against the old irresponsible Government. I do hope, Sir, that the Hon'ble Home Minister, who was a member of that old Government, is not carrying with him to this day the traditions of irresponsible despotism. I do hope that he has already undergone an inner change and he is now breathing the new atmosphere of democracy which he had the privilege to inaugurate in Bengal, and which we are breathing in this reformed Legislature. In shaking off those traditions of irresponsible despotism, why does he not concede that that atmosphere in which the crimes were committed is no longer in existence in this country? The atmosphere of the country has completely changed. Under the Government of India Act, 1935, we are under a totally changed and radically new condition. So, what is the difficulty if you simply order release in respect of these few youths? They will never be a source of difficulty, especially to you—a big Government armed with the might and majesty of the British Empire. Why then hesitate; why talk about assurances; why not proceed granting that no assurances are forthcoming? After all, these youths really represent a somewhat abnormal character. They are possessed of abnormal psychology, and perhaps some of them may be suffering from some kind of mental hysteria. And so you have to deal with these abnormal mentalities in quite a different manner. You know that they have given assurances to the only person in India in whom they have

some faith. Suppose, they do not see eye to eye with the Government, they do not like to deal with Government officers in a friendly manner, because they have been the victims of what they consider to be so much of an injustice and oppression. Their mind is somewhat unhinged in this matter.

Supposing, they are incapable of having a judicial mind on all these subjects, why come down upon them in a spirit of vengeance? That is my whole argument. You can afford to be generous, you can afford to take a statesmanlike view on the subject, especially because one of the greatest men of India says that it is a very good policy for the Government to release forthwith all political prisoners without reference to assurances, though these assurances have been communicated. Why cannot this enlightened Government take its stand upon what Mahatma Gandhi was pleased to describe as an act of true statesmanship? Why does the Hon'ble Home Minister descend to the level of an argument and demand terms? There is no need of such argument. You take the men as they are, you know that they are of abnormal mentality and you consider the circumstances in which they had acted ten years ago, some of them perhaps even 12 years or 15 years back. These are criminals, political criminals who acted in a certain spirit of misguided idealism. They acted as idealists but the environment in which they acted is no longer in existence. So, I just make this appeal; I am not here to cross sword with the Hon'ble Home Minister; it is impossible to argue on the point in that narrow manner. Where it is a question of full and complete statesmanship, where it is a case of administrative idealism, we have only to consider what we will lose by having released thousands of persons and yet keeping in detention only a few. Supposing Government is hard put to it to watch the activities of these prisoners who in their opinion do not deserve a release, supposing they are released—and I think as a big Government they can do it,—what is the harm? Let the Government remember that human nature always responds to a manifestation of generosity and statesmanship. If there is any show of good-will, if there is no spirit of bargaining and the release is ordered on the ground of higher statesmanship, the prisoners themselves, I am quite sure, will after release give the assurances that they have seen the error of their ways and that they no longer believe in the creed of violence which is absolutely inapplicable to the conditions of the country which has been disarmed for half a century. How can the idea of violence be set rolling in this country of slaves that remains disarmed? Therefore if the release is effected without any condition in a sheer spirit of generosity and enlightened statesmanship, I am sure, these very prisoners will respond to this show of generosity and they will themselves be most forward in giving assurance publicly that they no longer believe in the bloody cult of violence. I am not trying to argue with the Home Minister on the basis of facts and figures. I think that to state facts and figures would

be taking the most narrow view of an issue of grave political importance and this issue has been narrowed down by the question of the release of a few prisoners. I dare say that the Home Minister can afford to release these prisoners and he knows that he can take risks easily. I do hope that he won't take my belated speech grudgingly, because I came a little late. I hope I have not said anything which might embarrass him afterwards.

Mr. LALIT CHANDRA DAS: Sir, the Home Minister was not quite correct when he said that when we, meaning myself and Mr. Sarat Chandra Bose, agreed to serve on the Advisory Committee, we accepted the principle of examination of individual cases. As a matter of fact, Mr. Sarat Chandra Bose on our behalf actually wrote to the Home Minister protesting against the principle underlying the appointment of this Advisory Committee and yet agreeing to serve just to see what can be done under the circumstances. In fact, when we came out, we stated as our reason that our views for wholesale and unconditional release of all political prisoners differed fundamentally and did not find favour with the majority of our colleagues in the Committee. It is for that reason that we came away. The Home Minister in his reply to my resolution had not attempted in any way to traverse the points that were raised. In fact, he has repeated what actually finds a place in the resolution of 25th September, 1938. It is exactly that resolution that I am contending against and it is for the purpose of reversing the policy underlying that resolution that I have tabled this motion—the motion for wholesale, unconditional and immediate release of political prisoners.

The point was raised by the Home Minister as to the atmosphere of the country and he stated that a war was raging. He forgets that the war is raging ten thousand miles away and I may point out to him that the atmosphere in Bengal is as quiet and as calm as it can be under the circumstances. Nothing untoward has happened in spite of the fact that over 3,000 detenus as well as a large number of convicted political prisoners have been set free. Whatever the war condition may be, if there is any war condition at all in Bengal, it has been created by the Government itself by their policy of repression—internment, externment, imprisonment of a large number of political leaders, Kisan leaders, and Labour leaders. If we leave aside the policy that is being followed by the Government, we know Bengal is perfectly sound. There is no *golmal* whatever in Bengal. In fact, if we look to what is happening abroad, we find that in spite of the fact that the war is raging, on the question of the release of convicted political prisoners, Governments of other countries had taken a perfectly different view from what is now being taken here by the Home Minister. Otherwise, it would

be inexplicable how the Government of Ireland at such a time released some 54 republican prisoners——

Mr. PRESIDENT: The honourable member is repeating what he has already said. In exercising his right of reply, he cannot raise any new point.

Mr. LALIT CHANDRA DAS: I will not repeat old arguments but will simply say that the Home Minister was not quite correct when he stated that the condition of the country warranted that the Government should be cautious in its policy of the release of political prisoners.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, this being the House of Elders, I feel that I must deal gently with the members of the Opposition and try not to rub any point in, if I can help it. I would remind the House that the honourable the mover of this resolution in the course of his speech invoked the name of Mr. Gandhi at least a thousand times, if not more, to impress upon this House that the Government have not paid any attention to what Mr. Gandhi said. Now, one would feel and one would expect that the honourable member before calling upon this Government to listen to Mr. Gandhi would at least accept his advice himself and follow it. If he would do that, then he could naturally expect the Government to listen to Mr. Gandhi. May I remind him that when he resigned and the correspondence was published, Mr. Gandhi advised him and Mr. Sarat Chandra Bose to go back to the Committee? Did Mr. Lalit Chandra Das accept Mr. Gandhi's advice? Did they go back to the Committee?

Mr. LALIT CHANDRA DAS: Did you send any invitation to Mr. Sarat Chandra Bose?

The Hon'ble Khwaja Sir NAZIMUDDIN: Our invitation was there; it was a standing invitation. As a mattter of fact, I personally requested Mr. Sarat Chandra Bose to go back.

Mr. LALIT CHANDRA DAS: You never requested me. Neither you sent in any letter to me or to Sarat Babu.

The Hon'ble Khwaja Sir NAZIMUDDIN: As far as these gentlemen are concerned, before they come and tell us what to do, I would like to see that they themselves observe those principles.

When I spoke last time, I just gave a gist of the conditions that we are imposing now on those whom we have agreed to release conditionally. I would like to read out the exact words of those conditions

and then I would simply leave it to the House to judge whether there is anything unfair or unreasonable in the conditions which Government want to impose on those prisoners. The conditions now imposed are as follows:—"Declaration by the prisoner on his word of honour that he has abandoned terrorism and undertakes that he will not in future resort to terrorism or acts of violence with political motives, and that he will not join, or remain a member of, or start any party or organisation which implies or instigates terrorism and acts of violence for political ends". These are the conditions which we wanted to impose on those whom we agreed to release on condition.

Dr. RADHA KUMUD MOOKERJI: What is the value of that?

The Hon'ble Khwaja Sir NAZIMUDDIN: If you say that these people will not keep their words and therefore it is of no value, then, of course, it is quite a different thing. I agree with you on that point.

Dr. RADHA KUMUD MOOKERJI: Why should a big Government insist on such an undertaking?

The Hon'ble Khwaja Sir NAZIMUDDIN: I now turn to the speech of my honourable friend Dr. Radha Kumud Mookerji. May I repeat the compliments which he has paid to me and say that he has got a very great reputation as a professor but I consider him to be a greater politician than an educationist, because he has got a happy knack of forgetting all facts and of just making out a case directly in opposition to the state of affairs that exists in this country. Let me take one of his points. He says, "this is a big and mighty Government and how can it be affected by the release of 150 political prisoners when they have already released 3,000 prisoners? How can the 150 people make any difference? May I suggest is it possible to place the head of a department and an authority on a certain subject in the same category as an ordinary lecturer in his college? The 50 or 60 prisoners whom we have refused to set free are the people who have been the leaders of the movement. They are the people who have got the capacity to organise. They are the people who are the brains behind the movement. They are not to be found in thousands; they are in ones and twos. It is those people whom we are detaining and not the ordinary tools of these ring-leaders. We have allowed those ordinary prisoners to go. One of the honourable members has said that this Government is a "no-changer" and the Home Minister is a "non-changer". I maintain that there is no Government which has been so liberal in the policy of release as this Government has been. Since we have come to office, we have released over 3,000 people. We have released those prisoners who, we honestly thought, could be released without any danger to the State.

We are detaining only those people who, we are convinced, are the leaders, the organisers and the brains of the movement. The honourable speakers from that side of the House have been giving us lessons on the principles of democracy, on public opinion but how is it that they are not practising that theory themselves? What can be more representative, what can be more constitutional than the recommendation of a Committee of the members of the Legislature chosen from practically all parties? Is public opinion represented by its representatives or by a few people? If that was so, then I say that Mr. Gandhi is the most hated man in Bengal, because from Goalundo to Sealdah black flags were shown to him. Is the honourable member prepared to accept that theory? Will he agree with that theory? Because half a dozen young men went to the platform and showed black flags, that does not mean that Mr. Gandhi is not held in esteem by the Hindu gentlemen of Bengal. Because half a dozen young people held a meeting and passed a resolution, that does not reflect the public opinion of Bengal.

The Hon'ble Mr. A. K. FAZLUL HUQ: Public opinion does not mean opinion of half a dozen men.

(There were some interruptions from the Opposition Benches.)

The Hon'ble Khwaja Sir NAZIMUDDIN: Mr. President, Sir, I am prepared to reply to any interruption, but, Sir, it is impossible to carry on conversation and the debate at the same time.

Is the public opinion of Bengal represented by the representatives of the public in the Legislature, or is it reflected in the opinions and speeches of a handful of—if one may use such an expression—"*raggamuffins*" assembled in a public park and holding meetings?

Mr. LALIT CHANDRA DAS: But the most important political party had to withdraw from your Committee.

The Hon'ble Khwaja Sir NAZIMUDDIN: To that I have given an effective reply as to why the Opposition withdrew from the Committee.

But it does not matter if the Opposition withdraws. Public opinion is the opinion of the majority and not of the minority. And therefore the public opinion——

Mr. NARENDRA CHANDRA DATTA: Will you stick to that always? Are you going by the principles of responsible Government?

The Hon'ble Khwaja Sir NAZIMUDDIN: We are going by that and, Sir, that public opinion has given its verdict through its representatives here and through the members who were appointed on that Committee.

The Hon'ble Mr. A. K. FAZLUL HUQ: They, the Opposition, ignore everyone but themselves.

The Hon'ble Khwaja Sir NAZIMUDDIN: So, Sir, I have shown that there is no reason to suppose that public opinion is in favour of what they advocate. There is no reason to accept the theory that these 50 people do not count. They do count.

And last of all, Sir, I come to the question which I believe my friend Dr. Radha Kumud Mookerji has dwelt on for a considerable length of time. He kept on repeating his arguments over and over again on what is the present position in Bengal and that is where I am coming. Dr. Radha Kumud Mookerji as a politician has got the happy knack of forgetting what he has heard of or even read in the newspapers. He forgotten all that. Has he never heard of Mr. Subhas Bose? Has he never heard of his threats of Civil Disobedience and Direct Action by the Left-wingers? Dr. Radha Kumud Mookerji in the face of all these things says that there is nothing untoward; that there is peace and a calm atmosphere and that there is no danger. Is there no talk of defiance of constituted authority?

Mr. LALIT CHANDRA DAS: But there is no talk of violence.

The Hon'ble Khwaja Sir NAZIMUDDIN: Was there any talk of violence when demonstrations were staged against Mr. Gandhi? I believe a large number of people went to the hospital afterwards. (Laughter.) I quite agree with you. We are all non-violent here. It was an absolutely non-violent demonstration, but, unfortunately, somehow or other, they had to be sent to the hospital. (Laughter.) So this is the position.

If anybody has watched the terrorist movement from its inception, he will find that the terrorist movement is always followed in its wake by civil disobedience movement or a mass movement. It has always come in the wake of that. First, they allow the Congress to act and then when they find that nothing has happened, they come in. We are practically in that position. We are being threatened every day in season and out of season with Direct Action. I do not know what that means and how can there be such a thing as non-violent Direct Action. As a professor, Dr. Mookerji may be able to explain things, but I have yet to know from him and to see if the civil disobedience movement in Bengal will not lead to violence. These are things which we may wait for and see.

Upto now, past history has shown that every civil disobedience movement has degenerated into a violent movement, and the greatest exponent of non-violence, viz., Mr. Gandhi, had to withdraw the non-violent civil disobedience movement because of its violent character.

Therefore, Sir, I maintain that even on the arguments that have have been put forward by the Opposition, every one of them is against and not in favour of the release of these political prisoners. I have got nothing further to add, Sir.

Dr. RADHA KUMUD MOOKERJI: Then, do you mean to say that they are all potential leaders?

(No reply from the Hon'ble Minister.)

Mr. PRESIDENT: The question before the House is: that this Council is of opinion that all the political prisoners, now in jail, should be released immediately and unconditionally.

(The motion was negatived.)

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Mr. President, Sir, I beg leave to move my resolution which runs thus:

"That this Council is of opinion that the Government High Schools be gradually deprovincialised and be turned into aided schools and the money thus set free be utilised in giving more liberal aid to aided schools, especially those of backward areas and those areas unprovided with schools."

Sir, these Government High Schools were model schools when they were first established. As High Schools were very few and far between, the Government had to start a High School practically in the headquarters of every district. But, now, Sir, private High Schools have sprung up in the headquarters of every district and many of them are showing good results, in some cases better than the Government High Schools. Also the number of students reading in the Government High Schools is negligible as compared with the number now reading in the private High Schools. More than 80 per cent. of the scholarships awarded for good results in the Matriculation Examination go to private schools and Government High Schools cannot secure even 20 per cent. Thus, Sir, we find that the Government High Schools have passed their period of utility. There was of course a time when they were very useful. But now so many private High Schools have been established and so many of them are working so creditably that no longer there exists any reason for any High School to continue entirely at Government expense.

Sir, the expenditure over a Government High School is near about Rs. 20,000 a year with which, if Government had the wish, they could help nearly 15 private schools. The expenditure per head in a Government High School is about Rs. 50 per head of pupil per year, whereas in an aided High School Government at best spend Rs. 10 per head per year. And there are at present more than half of the existing private High Schools which are not getting any aid at all, and High Schools are now being established in backward areas and in those areas

unprovided with schools. As the Government fund is limited Government cannot give grants to those High Schools, unless it can make some savings in some other way. That is why, Sir, that these Government High Schools, which have nowadays become a luxury, should be gradually abolished and the money thus set free should be utilised in giving more liberal grants to private High Schools. In that way, Sir, Government will be able to keep under its control the entire Secondary Education of the province instead of keeping control over a few High Schools throughout the province. There is a demand for grant also to schools started in new areas, but the Government has not got sufficient funds to grant aid to those schools. If, Sir, this demand is to be met, money must be saved from somewhere. Now that, Sir, we have made primary education free, unless we start more secondary schools, our apprehension is that the pupils coming out of the primary schools will relapse into illiteracy again very soon. So, the Government should come forward and give liberal aid to as many secondary schools as possible to create an atmosphere of education in rural areas, so that the children of the agriculturists coming out of the primary schools may not relapse into illiteracy. Sir, unless our Secondary education marches hand in hand and progresses with primary education, we think that the very object of making primary education free, the very object of the whole scheme of primary education, will fail. Sir, I do not propose that the Government High Schools should be closed down all at once. All that I wish to say is that they should be gradually deprovincialised and that they should be turned into aided schools. One school in each year could be deprovincialised by not filling up the vacancies that occur in different schools. If the Government, Sir, only accept the policy once, it will be for them to work out the ways and means to give effect to that policy. All that I wish to point out is that this is a question which deserves the serious consideration of Government, and we hope that Government will seriously consider it; otherwise, we think that the interest of Secondary Education of the province will suffer very much and will suffer seriously.

With these words, Sir, I commend my resolution for the acceptance of the House.

Mr. PRESIDENT: Resolution moved: that this Council is of opinion that the Government High Schools be gradually deprovincialized and be turned into aided schools and the money thus set free be utilized in giving more liberal aid to aided schools, especially those of backward areas and those areas unprovided with schools.

Rai Sahib INDU BHUSAN SARKER: Mr. President, Sir, I rise to support the resolution moved by my honourable friend, Khan Bahadur Saiyed Muazzamuddin Hosain. Sir, as far as I remember, there are about 50 Government High Schools in the province and about 1,300

High English Schools in the province. Sir, about Rs. 12 lakhs is spent annually over the maintenance of the Government High Schools and Rs. 13 lakhs and a half is spent on aided High Schools, which are about 1,300 in number. Sir, the thing is that the same sort of education is being imparted by the Government High English Schools as well as by the aided and unaided High Schools. And especially in mufassil areas where the aided and unaided High English Schools are imparting education they are not being adequately aided by the Government, most probably for want of funds. If that be the case, then only the 50 Government High Schools will get so much money from the Government Fund whereas the others will starve while imparting the same sort of education. I cannot understand the reason of it. Sir, to one aided school most probably from Rs. 175 to Rs. 150 is being granted whereas for every Government High English School most probably from Rs. 15,000 to Rs. 20,000 is spent. Of course I appreciate that there was a time when there was really the necessity for Government High English Schools as a sort of model institutions in some particular areas, especially in the district towns so to say, but nowadays I think the other High English Schools are doing their work very satisfactorily and in some cases doing more useful and more meritorious work than that of the Government schools. So in these days I think it is high time to consider whether the Government will take up these things seriously and I think, Sir, a Committee should be appointed to investigate into the matter and to work out the details, so that gradually these Government High English Schools may be deprovincialised and the money thus set free may be utilised in giving aids to the schools especially in backward and mufassil areas where it is most needed.

With these words, Sir, I support the resolution.

Mr. PRESIDENT: The Hon'ble Mr. A. K. Fazlul Huq!

The Hon'ble Mr. A. K. FAZLUL HUQ: Sir, my friend, the Khan Bahadur closed his speech with the request that Government should seriously consider the question of deprovincialisation and accept it as a policy and give effect to it gradually. I am prepared to accept that portion of his suggestion where he wants Government to consider the question seriously, but to give effect to it as a matter of policy deserves various considerations which it is not very easy to ignore.

Sir, there are certain points which have got to be considered. There is considerable force in the argument that all the educational institutions in the province have more or less an equal right to the fostering care of the Government and from that point of view all educational institutions should receive equal treatment. To my mind, Sir, the remedy lies not in deprovincialising a few schools which

exist (41 or 42), but in trying to give adequate help to the other institutions and to spend more and more on maintaining these high schools in accordance with the expanding needs of the province. That is a question of finance and at the present moment the one thing that has been worrying me is the question of getting sufficient money to meet the expanding educational needs of Bengal. At the present moment unfortunately, Bengal spends per student per year the lowest amount of all the provinces of India. We have to consider a province like Bengal which is considered to be not merely one of the major provinces but the premier province in India inhabited; but we are proud of the fact, by a highly intellectual people and we have been forced to carry on the administration with the finance which is practically the least amongst the major provinces of India. We are not spending as much as we ought to and whenever a new proposal for expenditure on education is put forward, the Finance Department not only objects, but puts forward very cogent reasons why the expenditure should not be incurred. This year we have not been able to provide for new grants-in-aid to schools. This is a very unsatisfactory position. We have come almost to the end of our tether, because it is not possible to raise more money by fresh taxation (Mr. RANAJIT PAL CHOWDHURY: "Hear", "hear".) but we are being driven to the position that even under these circumstances we have to find money somewhere. (Cries of "no, no" from the Congress Benches.) Although it is irrelevant, I ask the House to consider one or two essential points. I take my friends into confidence and appeal to them to help me. Not merely on Secondary education but also on primary or adult education, why should Bengal spend only Rs. 20 lakhs or Rs. 25 lakhs or Rs. 30 lakhs for secondary education? Why not at least a crore? Why we should not spend three or four crores for primary education? People stand aghast when I tell them the figures for the expenditure on education in primary and secondary schools. After all, a man has got to live, just as much as he has got to give his children education. A better Bengal should be a Bengal not merely a more healthy Bengal, but a Bengal where illiteracy should be a thing of the past, so that Bengalis may rise to the full height of their intellectual achievements and lead, as Bengal has always done, the other provinces of India. For all that, money is required. On the one hand, I certainly admit that it is very difficult for us to pay further taxes; on the other hand, I do not see how we can get on, if not by taxation. We will have in that case either to beg, borrow or steal. I do not know what to do. It may be if 5 million Bengalis take recourse to *satyagraha* and force the Central Government to give something (cries of yes, yes).

Then, of course, we can help the situation and if, that satyagraha is decided upon, I will get myself enrolled as one of the earliest volunteers.

I would just give the House, Sir, an idea about the question. I have been considering this question and as regards the conference, possibly a conference will have to be called, but I will ask Dr. Jenkins, the Special Officer, to look into the question first. A stumbling block is the question of dealing with persons serving in the Education Department. A large number of them, the moment you abolish Government schools, will be out of employment. They are officers who are serving Government very well and we cannot entirely throw them resourceless in this wide world as it will be difficult to find employment for so many of them. That is one aspect. (A VOICE: Go step by step.) That is only practicable. All at once we cannot do. But even then, the moment you deprovincialise one or two schools, you add to our unemployment problem. That is not the only difficulty.

I will just point out to the House some of the objections to deprovincialisation which have been put forward by educational experts. They say that it is necessary to have some schools in the province where discipline is good and the standard of work reasonably high. These are ensured in Government schools. Government schools are appreciated by the people and whenever any suggestion of deprovincialising any institution has been made, there have at once aroused protests from the local people. The fact that teachers in private schools are grossly underpaid is no reason for abolishing posts where they are well-paid. Government schools do in general provide for outside-class room activities and the non-academic side of school life to an extent to which private schools are unable because of lack of funds. Under the present system, the Government schools are the only ones over which Government have real control and it is essential that Government should have a direct interest in the Secondary education of the province.

Then, Sir, coming to the actual facts, the net cost of each of the Government High Schools is as I am now indicating. Each boys' school costs Government on an average Rs. 21,500 per year and the expenditure is at the rate of Rs. 66 per pupil per annum. Complete deprovincialisation of boys' schools would save Rs. 8,32,000, less whatever would have to be given as grant-in-aid for partial deprovincialisation at an average rate of Rs. 21,500 per school. The academic efficiency is indicated when we consider the percentage of passes at the Matriculation during the last 5 years and also by the general University average. In the year 1937, Government schools average of passes was 83·2 per cent. whereas general average for the whole of Bengal was 63·5 per cent. In the year 1936, the provincial average was 64:06 per cent. whereas the Government schools average was 76·0. In the year 1935, the provincial average was 59·2 per cent. and the Government schools average was 83:9 per cent. and so forth.

Now, Sir, that shows that compared with other schools, school for school, the Government schools judged by the University results are far

more efficient than private institutions. There are difficulties in certain schools. There are some schools which Government are pledged to maintain, either by Statute or on account of contract with public bodies, as Government institution. The following institutions come under this category. The Nawab Bahadur's Institution of Murshidabad which under the Murshidabad Act has got to be maintained by Government under the contract with the Nawab Nazims of Bengal; the Hindu School of Calcutta, the school classes of the Calcutta Madrassah, the Chittagong Moslem High School, the Taki High School, the Hooghly Branch High School, the Dacca Moslem High School, and the Uttarpara High School.

Then there are certain schools which require to be maintained as Government schools or as model schools because they are used as demonstration schools for the Training Colleges. They are:—

The Ballygunge High English School in Calcutta, and the Armanitola Government High English School at Dacca.

Now, Sir, I am myself not particularly convinced that the case against deprovincialisation is very strong. I feel, Sir, that either we must have some money somewhere, or if we are to cut our coat according to our cloth, we have got to deprovincialise at least some schools. And I am prepared not merely to have this question examined, it is being examined already by our experts, but before any steps forward in this direction can be taken, we have got to ascertain public opinion throughout Bengal.

Dr. RADHA KUMUD MOOKERJI: Can you not reduce the cost of inspection?

The Hon'ble Mr. A. K. FAZLUL HUQ: Sir, that question also is being considered by Dr. Jenkins, the Special Officer. He is on special duty as regards the overhaul of the Inspectorate. The whole question of deprovincialisation will have to be considered from the point of view of the immediate effect on Government schools and of how to find the money is order to finance all the educational institutions in this province. I am prepared to accept the suggestion put forward by some of my friends that there should be a conference. There should certainly be a conference, I agree, before Government decides upon deprovincialisation, because it is a step which Government should not be prepared to accept on its own responsibility. The people of Bengal who are interested as much as any member of Government should share with Government the responsibility of the policy of deprovincialisation. Therefore, Sir, I am glad to inform my honourable friend that the question is being seriously considered and is being investigated from various points of view. When we have collected all the facts, we will place them before those who are interested in the problem of education and in a position

to advise. If there is really a demand and it some of the problems can be solved, Government will be prepared to accept the policy of deprovincialisation and will take into consideration the remarks made by the two speakers who have spoken on this resolution. I can assure them of the utmost possible sympathy so far as Government are concerned.

Sir, I was myself at one time a great advocate of the policy of deprovincialisation. I have not personally resiled from that view, but I have got to carry on not according to my own personal wishes but according to the requirements of the question, from the points of view of the official and the non-official. With this assurance that I have been able to give, I hope, Sir, that this resolution will not be pressed to a division.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, after what has fallen from the mouth of the Premier, I would ask for leave of the House to withdraw the resolution moved by me.

Mr. PRESIDENT: Is it the pleasure of the House to grant the Khan Bahadur leave to withdraw his resolution?

(The resolution was then, by leave of the House, withdrawn.)

Mr. RANAJIT PAL CHOWDHURY: Mr. President, Sir, I beg to move that this Council is of opinion that rules should be enforced requiring pedestrains in the town of Calcutta to keep on the footpaths which should be provided with special crossing places and that underground subways should be constructed by Government at important and congested places in the town.

Sir, as the time at my disposal is very short and since my resolution is clear enough, I do not wish to dilate very much on this point. I might mention here, Sir, that I did have a few words in this connexion with the Hon'ble Home Minister, who at that time made suggestions to me and I acted according to his advice, but, Sir, I thought that the matter was rather important and that it would be better in the interest of saving considerable sums of money now spent on litigation and of saving some human lives to give it a wider publicity. I have, therefore, moved this resolution, and I hope, Sir, that it will be accepted by Government and also by my honourable friends over there (pointing to the Coalition Benches).

With these few words, Sir, I move my resolution.

Mr. PRESIDENT: Resolution moved: that this Council is of opinion that rules should be enforced requiring pedestrians in the town of Calcutta to keep on the footpaths which should be provided with special crossing places and that underground subways should be constructed by Government at important and congested places in the town.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I am rather surprised to find a member of the Congress Party moving a resolution of this character. One would have expected members of the Congress Party to move resolutions for the amelioration of the condition of the masses and of the poor people, which is more in tune with their professions. But what do we find here to-day? The mover wants the local Government to spend at least 10 to 15 lakhs of rupees to provide for underground subways in Calcutta so that the magnates of Calcutta might ride in their Rolls Royce on the streets of Calcutta.

Dr. RADHA KUMUD MOOKERJI: But the masses would not be killed, for most of the owners of these luxurious cars fall into the category of "owner-drivers."

Mr. RANAJIT PAL CHOWDHURY: But they might be killed as well by the Hon'ble Ministers' cars. (Laughter.)

The Hon'ble Khwaja Sir NAZIMUDDIN: But, Sir, all that the owner-drivers have got to do is to drive a little more carefully and a little more slowly. I admit, Sir, that this pedestrian problem in Calcutta is a "problem", but the magnitude of the problem is so great and the suggestion made by the honourable member is so expensive that I am afraid that we cannot give any consideration to this question. And what is more, it is primarily the duty of the Calcutta Corporation. I submit, Sir, that it is there that this resolution should have been moved. Actually, the Government are experimenting at one of the crossings, somewhat on the lines of the suggestion made by the honourable member in his resolution, viz., opposite the Holwell Monument, where we are trying to control pedestrian traffic. But it means engaging at least two or three extra constables and continuous friction with the crowd. To a certain extent we have been able to control it, but it is extremely difficult, for as I have already said, the cost would be enormous, as it is bound to be.

Dr. RADHA KUMUD MOOKERJI: But what is the cost of the experiment?

The Hon'ble Khwaja Sir NAZIMUDDIN: As I said the cost of any comprehensive scheme would be enormous.

Dr. RADHA KUMUD MOOKERJI: I wanted to know the cost of the experiment? Is it not Rs. 250 per month?

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes, that is so.

However, as I have said already, this question is really a matter for the Corporation of Calcutta to take up, and I would advise the honourable member to try and use his enormous influence in the Corporation to give effect to his suggestion.

Mr. RANAJIT PAL CHOWDHURY: I am not in the Corporation, Sir.

The Hon'ble Khwaja Sir NAZIMUDDIN: He has at least considerable influence with his party in the Corporation.

Sir, in view of what I have said, I have no other alternative but to oppose the resolution.

Mr. RANAJIT PAL CHOWDHURY: Sir, I am equally surprised at the completely apathetic reply and the somersault that my honourable friend has shown. Perhaps this inconsistency is due to the influence of his Leader, the Chief Minister, because, Sir, the Hon'ble Home Minister did not, at the time when I went to see him, give an absolutely curt reply like this. In any case, Sir, I would like him to examine the question once again. If he thinks that the latter portion of my resolution is very expensive, I am sure he can at least accept the first portion of it which is very harmless but which, on the other hand, would be very beneficial and which, from the humanitarian point of view, is very necessary, in a place like Calcutta where the people have not got that traffic sense and where they must be educated to acquire a certain amount of traffic sense in them. It is not a question of owner-driven cars only; there are so many lorries and buses whose drivers do not always adhere to the traffic rules. Sir, it calls upon the pedestrians to resort to some sort of safety devise to protect themselves. Even, Sir, if they have special crossing-places at a distance of 2, 3 or 4 hundred yards between each other, as the case may be, this would certainly eliminate the number of street accidents that happen almost every day. So, Sir, I again expect the Home Minister to examine this question and try and help the public, as far as possible, in this direction.

Mr. PRESIDENT: The question before the House is: that this Council is of opinion that rules should be enforced requiring pedestrians in the town of Calcutta to keep on the footpaths which should be provided with special crossing places and that underground subways should be constructed by Government at important and congested places in the town.

(The motion was negatived.)

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I beg to move that:—

"This Council is of opinion that immediate arrangements be made by the Government of Bengal for credit facilities to the agriculturists and pending final arrangement a sum of 1½ crores of rupees, at the rate of about 25,000 rupees per thana, be allotted this year for agricultural loan, after securing the money, if necessary, by floating 3½ per cent. Government loan."

Sir, that the rural credit problem has now become a very serious one cannot be denied by anybody. Sir, partly due to the depression and partly due to other causes, viz., the administration of the Agricultural Debtors Act and also the Money-lenders Act (Cries of "Hear hear" from Congress benches), the *mahajans* have become very much apprehensive and so money has become very shy in the mufassil area and the agriculturists are finding it extremely difficult to carry on their agricultural operations. Sir, unless Government come to their rescue probably cultivation of the land will not be as efficient as it should be, and in some places lands may even go uncultivated and in some places the *raiyats* may be compelled to sell off their lands or a portion of their lands for the purpose of securing money for financing agriculture. For these reasons, Sir, I think, though I understand that Government is already considering the question of agricultural credit facilities, that as the solution of that problem may take some time, I move that immediately something has to be done if the agriculturists are to be relieved in this matter.

So I move that tentatively Government should raise 1½ crores of rupees and distribute it at the rate of Rs. 25,000 per thana as agricultural loan, so that the agriculturists may get on somehow until the question of agriculutral finance is finally solved.

With these words, I commend my resolution for the acceptance of the House.

Mr. PRESIDENT: Resolution moved: that this Council is of opinion that immediate arrangements be made by the Government of Bengal for credit facilities to the agriculturists and pending final arrangement a sum of 1½ crores of rupees, at the rate of about 25,000 rupees per thana, be allotted this year for agricultural loan, after securing the money, if necessary, by floating 3½ per cent. Government loan.

The Council stands adjourned till 2-15 p.m. on Monday, the 11th March.

Adjournment.

The Council then adjourned till 2-15 p.m. on Monday, the 11th March, 1940.

Members absent.

The following members were absent from the meeting held on the 1st March, 1940:—

(1) Mr. Nur Ahmed.
(2) Mr. Moazzemali Chowdhury.
(3) Mr. Humayun Reza Chowdhury.
(4) Khan Bahadur S. Fazal Ellahi.
(5) Alhadj Khan Bahadur Khwaja Muhammad Esmail.
(6) Mr. Mohamed Hossain.
(7) Khan Bahadur Syed Muhammad Ghaziul Huq.
(8) Khan Bahadur Maulvi Muhammad Ibrahim.
(9) Alhadj Khan Bahadur Shaikh Muhammad Jan.
(10) Maulana Muhammad Akram Khan.
(11) Mr. H. G. G. Mackay.
(12) Rai Bahadur Satis Chandra Mukherji.
(13) Khan Bahadur Ataur Rahman.
(14) Mr. J. B. Ross.
(15) Mr. W. F. Scott-Kerr.
(16) Khan Bahadur M. Shamsuzzoha.
(17) Raja Bhupendra Narayan Sinha Bahadur.

B. G. Press—1939-40—13739A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Buildings, Calcutta, on Monday, the 11th March, 1940, at 2-15 p.m. being the ninth day of the First Session, pursuant to section 62(2)(a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Outstanding Question of the November-January Session, 1939-40.

Rise of prices of the commodities of daily use.

171. Mr. SHRISH CHANDRA CHAKRAVARTI: (a) Is the Hon'ble Minister in charge of the Commerce and Labour Department aware of the fact that the prices of some of the most necessary commodities of daily use, namely, cloth, medicine, paper, oil, matches, etc., have gone up after the declaration of the present war from 100 per cent. to 300 per cent.?

(b) Is the Hon'ble Minister further aware of the fact that the prices of the foodstuffs have gone unusually high in spite of the enforced order of the Bengal Government?

(c) Is it a fact that big merchants, both retail and wholesale dealers, are keeping their goods in stock to make more profit in future?

(d) Will the Hon'ble Minister be pleased to state the extent of the rise in prices which has taken place since the establishment of the Provincial Price Control Board and the present day?

(e) If the reply to paragraphs (a) to (c) be in the affirmative, will the Hon'ble Minister be pleased to state what action the authority did take or intends to take? If not, why not?

MINISTER in charge of the COMMERCE and LABOUR DEPARTMENT (the Hon'ble Mr. H. S. Suhrawardy): (a) The price rose immediately after the declaration of war, but the action taken by Government to check profiteering, has kept the prices under control. In no case have the prices risen as high as stated by the hon'ble member. Since the end of last month. prices have gone down considerably.

(*b*) No, this is not a fact. The orders of Government are being observed.

(*c*) Whenever any such instance is brought to the notice of Government, action is taken. The Chief Controller of Prices is ready to take steps whenever specific instances are brought to his notice.

(*d*) As prices have been fluctuating considerably, it is difficult to specify the extent of the rise except on a particular date and only in respect of specified item.

(*e*) Does not arise.

Questions for the Current Session.

Decision of Government on the recommendations of the Moslem Education Advisory Committee's Report.

44. Mr. NUR AHMED: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state why no resolution embodying the decision of Government on the recommendations of the Moslem Education Advisory Committee's Report, published in 1934, has been issued, and what are the reasons for this extraordinary delay?

(*b*) When will the final decisions of the Government on each and every recommendation of that Committee's report be published by the Government?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): Steps have been taken for the preparation of the reply which, I regret to say, is not yet ready.

Mr. HUMAYUN KABIR: Are we to take it that the usual answer in respect of questions relating to the Education Department will in future take this form?

(No reply.)

The travelling allowances of the Hon'ble Ministers.

45. Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister in charge of the Finance Department be pleased to lay on the table a statement showing the travelling allowance charged by different Ministers during the current financial year?

MINISTER in charge of the FINANCE DEPARTMENT (the Hon'ble Mr. H. S. Suhrawardy): A statement is laid on the table.

Statement referred to in the reply to question No. 45, showing the travelling allowance paid to Hon'ble Ministers from the 1st April, 1939, to date (24th February, 1940).

	Rs.	A.
The Hon'ble Chief Minister and Minister of Education and Publicity	4,883	6
The Hon'ble Finance Minister	1,184	1
The Hon'ble Home Minister	1,822	11
The Hon'ble Revenue Minister	1,594	6
The Hon'ble Minister, Local Self-Government and Industries	2,781	4
The Hon'ble Minister, Communications and Works ..	1,847	3
The Hon'ble Minister, Commerce and Labour ..	3,473	10
The Hon'ble Minister, Judicial and Legislative ..	709	6
The Hon'ble Minister, Forest and Excise ..	1,492	14
The Hon'ble Minister, Co-operative Credit and Rural Indebtedness	1,946	9
The Hon'ble Minister, Public Health, Medical and Agriculture and Veterinary	4,253	1

Pay of the members of the Bengal Civil Service.

46. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: (*a*) Will the Hon'ble Minister in charge of the Home Department kindly state what has happened to the proposal of further reducing the pay of the members of the Bengal Civil Service (Senior Service)?

(*b*) Is he aware that men of equal ability and status are working at a much less pay as members of the Junior Branch of the Bengal Civil Service?

(*c*) Is there any reason for maintaining this distinction between two branches of the Service, particularly when there is only one branch in the Judicial Section of the Bengal Civil Service?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) The general proposal to revise the pay scales has been held in abeyance in view of the situation created by the war and the proposal to reduce further the pay of the Bengal Civil Service is held in abeyance together with the proposed general revision.

(*b*) This is a matter of opinion; but the members of the Bengal Junior Civil Service draw less pay than members of the Bengal Civil Service.

(*c*) Yes; the Bengal Junior Civil Service is intended for duties of minor importance and the Bengal Civil Service for duties of greater responsibility, such as subdivisional charges. The Bengal Civil Service (Judicial) is recruited for duties of uniform responsibility and corresponds to the Bengal Civil Service (Executive), there being no Junior Service on the Judicial side. Although schemes of amalgamation have been worked out, none of them would fulfil the administrative requirements without equal or greater public expense.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: With reference to answer (*b*), will the Hon'ble Minister be pleased to state if it is not a fact that some of the best members of the Bengal Civil Service originally started as members of the Bengal Junior Civil Service?

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, that is a matter of opinion.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is not the Hon'ble Minister aware that the only member of the Bengal Civil Service who rose to Commissionership of a Division started as a member of the Bengal Junior Civil Service?

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes, I know of one such case.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is it not a fact that many of the members of the Bengal Junior Civil Service are enjoying first-class powers and are holding charge of districts and treasuries?

The Hon'ble Khwaja Sir NAZIMUDDIN: That is so, Sir.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is it not a fact that the number of the members of the Bengal Senior Civil Service holding charge of subdivisions is only about 60 or 70 out of a total of 350?

The Hon'ble Khwaja Sir NAZIMUDDIN: I am not aware that there are 350 Subdivisional Officers.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: What I meant was that 350 is the number of members of the Bengal Civil Service of whom 50 or 60 are holding charge of subdivisions.

The Hon'ble Khwaja Sir NAZIMUDDIN: That is again correct, Sir.

Horse allowance for the Subdivisional Officers.

47. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: (*a*) Will the Hon'ble Minister in charge of the Revenue Department kindly state if he is aware that recently orders have been issued allowing Indian Civil Service officers holding charge of subdivisions to draw horse allowance?

(*b*) Is any such allowance proposed to be given to members of the Bengal Civil Service holding charge of subdivisions? If not, why not?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) Yes.

(*b*) No. The allowance is intended to encourage officers of district rank to resort to the old method of touring with tents and horses so that they may visit the more inaccessible parts of their districts and come into personal contact with the villagers. For this purpose it is necessary that an officer should become "horse minded" from the early days of his service. As the members of the Indian Civil Service provide the bulk of touring officers of district rank and as the number of members of the Bengal Civil Service who eventually become District Officers is very small, it is not proposed to extend the concession to Bengal Civil Service officers holding charge of subdivisions.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state if it is intended that Subdivisional Officers should not also become horse-minded, as suggested in this reply? (Laughter.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It is not intended and Government do not see any justification for providing them with special facilities to become so.

Mr. HUMAYUN KABIR: Is it not a fact that it is easier for a Subdivisional Officer to become acquainted with villagers through personal contact than for a District Officer?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sometimes it is so, Sir.

Mr. HUMAYUN KABIR: In that case, is it not desirable that the B.C.S. Subdivisional Officers should be provided with the same facilities as are intended to be provided for future embryonic District Officers?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It is a matter of opinion but as I have mentioned, only a very small percentage of the members of the Bengal Civil Service ultimately become District Officers. So, Government do not consider it necessary to provide members of the Bengal Civil Service, with the same facilities, even as Subdivisional Officers.

Mr. HUMAYUN KABIR: Shall we be wrong if we infer from this that the principle followed here is that of carrying coal to Newcastle?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No, Sir. It is a question of funds. It may be desirable to provide the same facilities to all officers, but certainly one has to pick and choose because Government's finances are not unlimited.

Khan Bahadur ATAUR RAHMAN: May we know when this order came into force?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I think it is two years old.

Khan Bahadur ATAUR RAHMAN: May we know whether all the I.C.S. Subdivisional Officers maintain horses?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I ask for notice.

Khan Bahadur ATAUR RAHMAN: May we know whether the Subdivisional Officers in the riverine subdivisions like Patuakhali, Bhola and other places are given horse allowance?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No allowance is given.

Khan Bahadur ATAUR RAHMAN: Is it a fact that this horse allowance is in addition to the usual travelling allowance?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, it is.

Khan Bahadur ATAUR RAHMAN: What is the reason of giving additional allowance when the horse is used for touring for which he is separately entitled to travelling allowance?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It is to meet the additional expenditure which an officer has to incur for keeping a horse because the Subdivisional Officer gets 8 annas per mile when he tours on horseback.

Khan Bahadur ATAUR RAHMAN: Does not the I.C.S. Subdivisional Officers draw first-class allowance?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir.

Khan Bahadur ATAUR RAHMAN: That being so, does not the Hon'ble Minister think that such allowance can cover the expenses of maintaining a horse?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No, Sir, it does not.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: The Hon'ble Minister has said that it is not considered justifiable in the case of a B.C.S. Subdivisional Officer to give him any horse allowance. May I know if it is because his pay is less?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No, Sir. The reasons are explained in the answer already given by me that because only a small percentage of officers of the Bengal Civil Service ultimately become District Officers, Government do not feel justified in providing the same facilities for B.C.S. Subdivisional Officers.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is it the desire of the Government that B.C.S. Subdivisional Officers need not come into closer contact with the people of the interior?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: As I have repeatedly said, it is a question of funds. Because the Government's finances are not unlimited, they have got to draw the line of demarcation somewhere.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is it not a fact that the District Officers used to do touring on horse-back even when there was no horse allowance?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, that was probably the practice in the olden days, but that practice fell into disuse long ago.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is the Hon'ble Minister aware that the I.C.S. is considered to be already a favoured service and is it not a fact that only because the Government of India Act does not prevent any motion regarding the reduction in the number of such officers and their emoluments, nothing is being done in that direction, and in contrast to this, is it not a fact that their allowance is being increased by the Provincial Government on their own initiative?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No, Sir. I do not think the Government of India Act has got anything to do with it. It is purely on administrative grounds that Government have agreed to grant additional allowances to District Officers for keeping horses.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state if the District Officers who kept horses formerly discontinued to do so because no horse allowance was paid?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Formerly they used to keep only horses. Then the motor-cars came, and it was consequently necessary for them to maintain motor-cars. So, the District Officers find it difficult to main both motor-cars and horses.

Mr. HUMAYUN KABIR: Did the Hon'ble Minister receive any representation from the I.C.S. District Officers, asking for any such horse allowance?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No such representation was received. As a matter of fact, Government took the initiative in the matter on the suggestion of the Government of India before the Reforms of 1935. The whole matter was thoroughly enquired into by a special committee known as the Sachse Committee and in pursuance of its recommendations these new rules were enforced.

Mr. HUMAYUN KABIR: Was this Mr. Sachse himself a member of the Indian Civil Service?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, he was.

Khan Bahadur ATAUR RAHMAN: Has any enquiry been made up till now to ascertain how many I.C.S. officers have maintained horses?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I am sure there are records of that in the office, but I cannot give any answer to the honourable member off-hand without reference to the records.

Mr. HUMAYUN KABIR: May I know if the Settlement Officers are paid any horse allowance?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I submit that that question does not arise here.

Mr. HUMAYUN KABIR: I submit, Sir, that it does arise because they are also District Officers holding charge of Settlement operations in the districts.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No, Sir, Settlement Officers are not District Officers.

Mr. HUMAYUN KABIR: There are I.C.S. officers who are Settlement Officers.

(No reply.)

Khan Bahadur NAZIRUDDIN AHMAD: Supposing an officer of this class——

Mr. PRESIDENT: There should be no question on supposition (Laughter); the question is hypothetical.

Khan Bahadur NAZIRUDDIN AHMAD: Will an officer who travels on horse-back receive horse allowance in addition to motor-car allowance or train-journey allowance? Is that permissible?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: There is no such allowance as motor-car or train-journey allowance.

Khan Bahadur ATAUR RAHMAN: Does such an officer draw mileage allowance when he rides a horse?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, he does.

Khan Bahadur ATAUR RAHMAN: In that case is it not paying twice for the same journey?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: In the opinion of the Government, it is not so, Sir.

Realisation of the roziana or Process fee.

48. Mr. NUR AHMED: (*a*) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state if it is a fact that the *roziana* or process fee used to be realised formerly from the defaulting proprietors of estates at the rate of annas 12?

(*b*) Is it a fact that the said rate of annas 12 has been raised by a recent order from the Government varying from Re. 1-8 to Rs. 3?

(*c*) Is it a fact that this *roziana* or process fee is now being realised in Chittagong from defaulting proprietors and others at the rate of Re. 1-8 to Rs. 3?

(*d*) Will the Hon'ble Minister be pleased to state why an order has been issued by the Government enhancing the process fee in question from annas 12 to Re. 1-8 to Rs. 3?

(*e*) Does the Government intend to reduce the *roziana* or process fee to annas 12 or less? If not, why not?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The information is being collected.

Inconvenience of the Noakhali-Calcutta passengers.

49. Khan Bahadur REZZAQUL HAIDER CHOWDHURY: (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state whether the Government is aware that much inconvenience is felt by the Noakhali-Calcutta passengers passing through Chandpur owing to the decision of the Assam-Bengal Railway, to discontinue 79-Up and 80-Down trains?

(*b*) Is it a fact that since the enforcement of this decision of the Railway authorities, many representations have been made drawing the attention of the Railway Company to the inconvenience of the Noakhali public and that no step has been taken by the Railway authorities as yet?

(*c*) Does the Hon'ble Minister propose to move the Railway authorities to restore those two trains or at least to change the timings of the existing trains in consultation with the local people of Noakhali just to avoid the present inconvenience as far as possible?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Srischandra Nandy, of Cossimbazar): (*a*) The train service on the Assam-Bengal Railway was curtailed as a measure of economy at the outbreak of War and Nos. 79-Up and 80-Down trains were withdrawn.

(*b*) and (*c*) A number of representations have been received by the Railway administration and the question of running No. 72-Down earlier and No. 75-Up later is under their consideration. They have informed me that the public will be consulted.

Appointments of Moslems in the Government services.

50. Khan Saheb ABDUL HAMID CHOWDHURY (on behalf of Mr. Nur Ahmed): (*a*) Will the Hon'ble Minister in charge of the Judicial Department be pleased to state if the Government decision as announced in their communique of 12th June, 1939, reserving 50 per cent. of appointments in Government services for Moslems applies to the Judicial services, such as appointment of Munsifs, appointment of clerks, and other officers and menials in the Civil Courts of Bengal?

(*b*) If so, what steps has the Government taken up to this day or intends to take in future to translate that decision into action? If not, why not?

(*c*) Is it a fact that this ratio of 50 per cent. reservation for Moslems was not observed in appointment of process-servers and clerks in the Civil Courts of Chittagong?

(*d*) If so, what steps does the Hon'ble Minister intend to take in the matter in order to give full effect to Government decision in respect of these services? If not, why not?

MINISTER in charge of the JUDICIAL DEPARTMENT (the Hon'ble Nawab Musharruff Hossain, Khan Bahadur): (*a*) The Government decision of 12th June, 1939, will apply to Judicial services of the Province generally, but the question of its application to menials and other posts with small salaries is under consideration.

(*b*) The decision of 12th June, 1939, has been communicated to all appointing authorities and returns of all appointments made since the 17th March, 1939, have been examined, and periodical returns are being prescribed which will be examined, to ensure that the decision of Government is observed.

(*c*) No.

(*d*) Does not arise.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: With reference to answer (*c*), does the Hon'ble Minister mean to say that the ratio was observed with regard to the process-servers in the Chittagong district?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I am not sure of it, Sir.

Establishment of the Co-operative Arbitration Societies in Bengal.

51. Khan Saheb ABDUL HAMID CHOWDHURY (on behalf of Mr. Nur Ahmed): (*a*) Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state if it is a fact that in the Punjab, Co-operative Arbitration Societies were started some years ago to settle disputes on the spot without involving much cost and that these societies have proved very successful?

(*b*) If so, has any society of this type been started in Bengal?

(*c*) If not, does the Government intend to start some such societies in Bengal by way of experiment?

MINISTER in charge of the CO-OPERATIVE CREDIT and RURAL INDEBTEDNESS DEPARTMENT (the Hon'ble Mr. Mukunda Behary Mullick): (*a*) Yes. Some are reported to be working fairly well.

(*b*) No.

(*c*) No; the amicable settlement of disputes between members is definitely one of the objects of Better-living Co-operative Societies in Bengal, and departmental officers have instructions to foster such a practice among members of all classes of societies.

Riot at Bansberia.

Mr. KAMINI KUMAR DUTTA: Before any other matter is taken up, may I be allowed, Sir, to put to the Hon'ble Minister in charge of the Home Department a question on an urgent matter?

Mr. PRESIDENT: Yes.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister in charge of the Home Department be pleased to state before the House the facts leading to shooting at Bansbária as the sequel to which death has been caused to several persons? It appears that there was a serious riot and there was shooting also.

The Hon'ble Khwaja Sir NAZIMUDDIN: There was no shooting whatsoever by the police. As the sequel to the riot, six persons have died and 5 or 6 people were wounded. I have only got preliminary reports and have nothing more to add to this information. It was a riot between two parties.

Mr. KAMINI KUMAR DUTTA: My question has not been answered. My question was whether there was shooting by the police or not?

Mr. PRESIDENT: That has already been answered. There was no shooting by the police.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister please make a statement on this matter as soon as more information is available which is the practice in other countries?

The Hon'ble Khwaja Sir NAZIMUDDIN: I do not think it is necessary. If a short-notice question is put, I am prepared to consider whether it can be answered. Moreover, the matter is *sub judice* now as a case has been started. This much I can say that a very large number of police force and a tear-gas squad have already been sent there to prevent the necessity of shooting, if possible, and we have taken adequate measures to prevent any further rioting. But it is very difficult to be absolutely sure about it, because the cooly lines contain something like 12,000 mill-hands, fairly equally divided amongst the Muslims and the Hindus. The lines are adjoining and on the slighest provocation the coolies fall out and start fighting amongst themselves.

Mr. HUMAYUN KABIR: May I hope, Sir, that you will allow a convention to be built up according to which on important matters like this instead of the formality of tabling short-notice questions, the Hon'ble Ministers, if referred to, would make a statement of the type which has just now been made by the Home Minister to enlighten the House about the latest position?

Another thing to which I would like to draw the attention of the Chair is that there is one question from the last session to which answer has not yet been given. I asked about the Muslim Female Training School in Calcutta to which the interim answer was that information has not yet been collected. Fifteen days' notice was properly given, and since then a couple of months have elapsed and yet no further reply has been received by us.

Mr. PRESIDENT: I understand from office that several reminders have been sent. However, I shall cause further enquiries to be made about it.

Statement regarding action taken by Government on non-official resolution passed by the Council.

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, in accordance with the provisions of sub-rule (2) of Rule 95 of the Bengal Legislative Council Procedure Rules, I have the honour to place for the information of the Council the following statement regarding the action taken by the Government on the resolution regarding investigation into the yield of rice in the province that was passed by the Council on the 24th November, 1939:—

"Government are contemplating the deputation of an expert officer from their Agricultural Department to Japan to study cultural practices in regard to rice, but before coming to any final decision they have enquired of the Government of India whether they would be prepared to approach the Japanese Government in the matter with a view to affording the officer selected reasonable facilities for this study."

Governor's Assent to Bills.

Mr. PRESIDENT: Order, order. I have now to inform the honourable members that the following Bills which were passed by both Chambers of the Bengal Legislature have been assented to by His Excellency the Governor under the provisions of section 75 of the Government of India Act, 1935, namely:—

(1) The Bengal Public Demands Recovery (Amendment) Bill, 1939.

(2) The Eastern Frontier Rifles (Bengal Battalion Amendment) Bill, 1939.

Mr. PRESIDENT: Secretary.

Message from the Assembly.

The Secretary (Dr. S. K. D. Gupta): Sir, I have received the following message signed by the Hon'ble Speaker from the Bengal Legislative Assembly:—

"The Bengal Legislative Assembly at its meeting held on the 4th March, 1940, agreed to the amendments made by the Council in the Bengal Money-lenders Bill, 1939."

Mr. PRESIDENT: Secretary.

Laying on Table of the Bengal Jute Regulation Bill, 1940.

The SECRETARY (Dr. S. K. D. Gupta): Sir, I have received the following message signed by the Hon'ble Speaker from the Bengal Legislative Assembly:—

"The Bengal Jute Regulation Bill, 1940, as passed by the Bengal Legislative Assembly at its meeting held on the 4th March, 1940, has been duly signed by me and is annexed herewith. The concurrence of the Bengal Legislative Council to the Bill is hereby requested."

Sir, I herewith lay on the table the Bengal Jute Regulation Bill, 1940, as passed by the Bengal Legislative Assembly at its meeting held on the 4th March, 1940.

Notice of motion to take the Bengal Jute Regulation Bill, 1940.

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, I beg to give notice that I propose to move during the current session of the Council that the Bengal Jute Regulation Bill, 1940, as passed by the Bengal Legislative Assembly be taken into consideration by the Council and passed.

I would also request you, Sir, to accept short-notice amendments and to allow me to move both the motions, one for consideration and another for passing the Bill, on the 19th of March.

Mr. PRESIDENT: May I take it that there is no objection from any hon'ble member about the Bill being taken into consideration on the 19th.

Mr. PRESIDENT: Notices of any amendments to this Bill should be given by 5 p.m. on the 13th instant.

Khan Bahadur ATAUR RAHMAN: It is too short a notice for an important Bill like this.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: We want a longer period. At least up to 15th.

Khan Bahadur NAZIRUDDIN AHMAD: We would require the full period allowed by the rules. We have not at all considered the matter.

Mr. PRESIDENT: According to rule 77 of the Bengal Legislative Council Procedure Rules, the honourable members are entitled to ten

days' notice, unless the President in his discretion reduces the period. I consulted the House and there was no opposition to fixing the 19th March as the date for the consideration of the Bill.

Now, the question is about the time that should be allowed for giving notice of amendments.

Mr. KAMINI KUMAR DUTTA: May I make a suggestion that the date for giving notice of amendments may be extended to 16th?

Mr. PRESIDENT: 16th is Saturday and there will be no office on the 17th. So, it will be difficult to circulate the amendments to the members.

Mr. H. C. A. HUNTER: I suggest 15th.

Mr. PRESIDENT: I fix up the time for giving notice of amendments at 11 a.m. on the 15th instant. That is the last date for giving notice. The office will then have time (15th and 16th) to get the notices of amendments printed and circulated to honourable members.

The Bengal Tenancy (Third Amendment) Bill, 1939.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that the Bengal Tenancy (Third Amendment) Bill, 1939, be taken into consideration. Sir, I propose to reserve my remarks for the present.

Khan Bahadur NAZIRUDDIN AHMAD: Mr. President, Sir, I find that the Honourable Minister wants to reserve his remarks for his reply——.

Mr. PRESIDENT: Motion moved: that the Bengal Tenancy (Third Amendment) Bill, 1939, be taken into consideration.

Khan Bahadur NAZIRUDDIN AHMAD: On a point of order, Sir. The Hon'ble Minister has intimated to us that he would reserve all his points for the reply. There is a general tendency on the part of the Hon'ble Ministers to reserve the remarks on important subjects. The effect of this is that surprises are often sprung upon us and it is very inconvenient for those members who have on many occasions to support the Government.

In fact, they may speak against the Government without knowing what a Minister would say at the last moment when some surprise may be sprung upon the House. It will lead to much inconvenience

at the time of voting and considerable trouble also may arise on this score. I would, therefore, suggest that all the cards be laid on the table so that every one here may appraise and appreciate them. There will be no harm in doing so. In such a case, there will be no cause for trouble or anxiety or bungling. If the cards are laid on the table at the outset, it is helpful to all sides, especially to those who would support the Government in a good cause.

Mr. PRESIDENT: I have ruled on a previous occasion that in a reply a member, be he a Minister or any other member in charge of a resolution or a bill, can only refer to the points raised in the course of the debate and not raise any new points. But on the Point of Order now raised, I rule that the honourable mover, Sir B. P. Singh Roy, has the right to move the motion without any speech.

Khan Bahadur NAZIRUDDIN AHMAD: I raised the point, Sir, because I thought it would lead to inconvenience.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I do not propose to raise any new points, but I would just try to meet the arguments that may be put forward by the honourable members in opposition to my motion.

Mr. H. C. A. HUNTER: Mr. President, Sir, may I now speak on the motion for circulation?

Mr. PRESIDENT: Let the amendment be moved first. The first amendment is the motion standing in the name of the Raja Bahadur of Nashipur for circulation. Let him move it first.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, I beg to move that the Bill be circulated for the purpose of eliciting opinion thereon by the 30th of November, 1940.

Sir, my reason for suggesting circulation for this Bill is that some of the most important rights which have been exercised and in fact have been in existence for the last 80 years, are proposed to be tampered with. So, I think it desirable to elicit public opinion on this. At the same time, I do not mean to shorten the period necessary to elicit public opinion. In my opinion, circulation is the best means of knowing the public mind.

Mr. PRESIDENT: Motion moved: that the Bengal Tenancy (Third Amendment) Bill, 1939, be circulated for the purpose of eliciting opinion thereon by the 30th of November, 1940.

Mr. E. C. ORMOND: Mr. President, Sir, I beg to move that the Bill be referred to a Select Committee consisting of—

(1) The Hon'ble Sir Bijoy Prasad Singh Roy, Minister in charge of the Revenue Department;

(2) Khan Bahadur M. Abdul Karim;

(3) Khan Bahadur Naziruddin Ahmad.

May I Sir, with your permission substitute the name of Mr. Khorshed Alam Chowdhury in place of Khan Sahib Abdul Hamid Chowdhury?

Mr. PRESIDENT: Yes, you have my permission.

Mr. E. C. ORMOND: Thank you, Sir.

(4) Mr. Khorshed Alam Chowdhury;

(5) Khan Bahadur Rezzaqul Haider Chowdhury;

(6) Khan Bahadur Saiyed Muazzamuddin Hosain;

(7) Rai Manmatha Nath Bose Bahadur.

Again, Sir, I beg leave to substitute the name of Dr. Radha Kumud Mookerji in place of Mr. Kamini Kumar Dutta.

Mr. PRESIDENT: Yes.

Mr. E. C. ORMOND: Thank you, Sir.

(8) Dr. Radha Kumud Mookerji;

(9) Mr. Shrish Chandra Chakraverti;

(10) Mr. Bankim Chandra Datta; and

(11) the mover,

with instructions to submit their report by the 21st March, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

With your permission, Sir, I will refrain now from making any speech on the matter pending the discussion of the motion for circulation, because the position of my party in regard to the motion which stands in my name will vary in accordance with the fate of the circulation motion.

Mr. PRESIDENT: Motion moved: that the Bill be referred to a Select Committee consisting of—

(1) The Hon'ble Sir Bijoy Prasad Singh Roy, Minister in charge of the Revenue Department,

(2) Khan Bahadur M. Abdul Karim,

(3) Khan Bahadur Naziruddin Ahmad,

(4) Mr. Khorshed Alam Chowdhury,

(5) Khan Bahadur Rezzaqul Haider Chowdhury,

(6) Khan Bahadur Saiyed Muazzumuddin Hosain,

(7) Rai Manmatha Nath Bose Bahadur,

(8) Dr. Radha Kumud Mookerji,

(9) Mr. Shrish Chandra Chakraverti,

(10) Mr. Bankim Chandra Datta, and

(11) the mover,

with instructions to submit their report by the 21st March, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

Mr. H. C. A. HUNTER: Mr. President, Sir, first I should like to make it clear that my Party are in complete sympathy with the main object of this Bill—the protection of tenants from being compelled to alienate their lands to money-lenders.

In the past the scales have been weighted against the *raiyat* and practices have arisen whose object has been the evasion of certain provisions of the main Act. My Party are sensible of the necessity for taking steps to cope with this position.

But, Sir, we do not think an injustice to one class of society should be redressed by perpetrating an injustice to another class. To adopt such a course—apart from its being morally indefensible—would set class against class and promote stresses in society prejudicial to progress and good order in the province.

Now, a comparison of the Statement of Objects and Reasons of this Bill with its actual provisions shows two most material points of difference. I refer to sub-paragraph (*vii*) of paragraph 3 and to paragraph 7 of the Statement.

Sub-paragraph (*vii*) of paragraph 3 refers to a procedure for the redemption of what are known as anomalous mortgages and *kot kabalas*. The object contemplated is to give the mortgager the right to institute a suit for termination of the mortgage on proof that the original debt with simple interest at 8 per cent. has been extinguished by the profits arising from the land. On reference to the Bill honourable members will find that there is no provision giving effect to this object. On the contrary, it will be found that under the provisions of the Bill, read with section 26G of the Act, anomalous mortgages and *kot kabalas* will be held to be extinguished at the end of 15 years' possession by the mortgagee.

Now, Sir, many of these mortgages were in effect sales. In fact, as honourable members are aware, *kot kabalas* are conditional sales and many of these anomalous mortgages were entered into before 1937 with the object of evading landlords' transfer fees. So, what in effect the Bill proposes we should do is to take away property from a purchaser without any payment after he has had 15 years' possession. This, Sir, smacks to us of expropriation and we feel it demands most careful scrutiny and I think revision.

Similarly, if honourable members will turn to paragraph 7 of the Statement of Objects and Reasons, they will find a proposal for protecting landlords in certain circumstances against combination among dishonest tenants. The object contemplated was that where a landlord has been compelled to purchase *khas* a notice should be served upon the tenant prohibiting him from remaining in possession.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: On a point of order, Sir. The Bill as introduced in the other place is not before this House. I submit that the honourable member cannot refer to the Statement of Objects and Reasons which formed part of the Bill when it was introduced elsewhere.

Mr. PRESIDENT: As regards the Statement of Objects and Reasons, though they do not form part of the Bill, yet it will be relevant to refer to it for purposes of discussion and debate.

Mr. H. C. A. HUNTER: I believe, Sir, that cases frequently occur in which, owing to a combination of tenants, the landlord is unable to make a fresh settlement and the tenant remains in possession of the land. On reference to the Bill honourable members will find that here, too, there is no provision for giving effect to the contemplated object. This object seems a most reasonable one; and this appears to us another point which demands most careful consideration by the House.

From the fact that the provisions of the Bill no longer agree with the Objects and Reasons set out in the Statement, honourable members may perhaps infer that the Bill has had a strange history in another place. In fact, I understand that these provisions to which I have referred were removed by short-notice amendments.

I submit, Sir, that changes of this nature should not have been made by short-notice amendments. I submit it was wrong to introduce, by means of apparently innocuous short-notice amendments, changes of this degree of gravity which have the effect of giving the Bill an expropriatory character.

I submit that as a question of principle of the first magnitude was involved, opportunity should have been afforded in another place for more weighty consideration of the implications.

I submit that on the contrary these short-notice amendments resulted in insufficient attention and consideration being given to this important matter.

One of the first duties of this House is to prevent the passage of hasty and ill-considered legislation and it seems to me that this is clearly a case where this Council should intervene. Once again, I wish to emphasize that my Party has no quarrel with the main object of the Bill: on the contrary, they are completely sympathetic towards it.

I think it would be a thousand pities if a piece of legislation, so desirable as this is in principle, were hurried through the Council. But we regard with grave alarm the expropriatory cast the Bill unfortunately assumed in its passage through another place. I think, there is, therefore, a case for circulation, the amendment regarding which we shall accordingly be disposed to support unless we receive some indication from Government that they will support the motion standing in the name of my colleague, Mr. Ormond, for reference to Select Committee, where an attempt would no doubt be made to make the provisions of the Bill correspond with its Statement of Objects and Reasons.

Mr. PRESIDENT: The House will first consider the amendment about circulation. Any speech that will be made now should be on the circulation motion.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I oppose the motion for circulation. This Bill, as it has been said just now, is a Bill based on very sound principles. It is a very short Bill and the details thereof are also very simple though they would require careful reconsideration by a Select Committee to improve and strengthen the drafting. But there is nothing new to be learnt. The principles are very simple, and if we send the Bill for circulation much time will be wasted. Already much litigation has begun. Many execution cases have been started and many were started in anticipation even before the Bill was made known officially. So, Sir, much mischief will be done if we delay the passage of this Bill any longer and many individuals would be ruined. I, therefore, submit that this House should not accept the motion for circulation; we should rather support the other motion for the Select Committee.

Rai MANMATHA NATH BOSE Bahadur: Sir, I support the motion moved by my honourable friend, the Raja Bahadur of Nashipur, and the reason for doing so is this. Sir, this Bill deals with

matters which are important both to the tenant as well as to the landlord, and, as has been observed by my friend, Mr. Hunter, in this connection, it deals with certain important matters, viz., usufructuary mortgages, *kot kabalas*, i.e., mortgages by conditional sale, and anamolous mortgages, and these are matters which at one time, i.e., at the time when the first amendment was brought before the Legislature, created considerable consternation in the country. It is, therefore, necessary, Sir, that the matter should receive the earnest attention of this legislature. Not only that, there are certain other matters dealt with in the new clause 168A (in clause 5) which also, I submit, will require very careful consideration. I, therefore, think that the matter ought to go to the public for their opinion.

Mr. HUMAYUN KABIR: Mr. President, Sir, I regret very much much that I have to oppose this motion for circulation. I quite agree with Mr. Hunter that important matters should not be dealt with by means of short-notice amendments and when matters of this type are brought before the House, the House should be given time to consider and give its full mind at leisure to all the implications of that particular issue. Nevertheless, as Mr. Hunter has himself admitted in his speech, the general principle underlying this Bill is so good and the necessity for a Bill of this type is so urgent and the fact that it has been considered in another place for a pretty long time is so obvious, that it is not perhaps for us at this stage to delay the consideration of this Bill still further by sending it for circulation. I think if there are amendments which we want to move, if there are particular features which seem obnoxious, these changes may be effected on the floor of the House. Therefore, I submit that if we are to make any alteration at all, these ought to be made here and this Bill should not be sent either for circulation or even to a Select Committee.

Mr. KAMINI KUMAR DUTTA: I rise to oppose this motion for circulation of the Bill. Indeed, Sir, the matter which is contemplated in sub-clause (3) relating to the amendment of section 26(*d*), has been the subject of a ruling of Hon'ble the High Court. It cannot be said that it is a matter on which we have been taken by surprise. The matter has been agitated very often in connection with several court cases. Recently, there was a case dealing with the question as to whether a mortgage which appeared to be, instead of being a mortgage, a conditional sale, would really come within the purview of section 26(*g*) of the Bengal Tenancy Act. Thus, the matter dealt with in this Bill not being a new one, it does not seem to be necessary to circulate it.

As to the other matter dealt with, namely, clause 5, it is also based on a principle which can well be discussed very fully in this House.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I rise to oppose the motion for circulation by the Raja Bahadur of Nashipur and my reasons for opposing it is as follows:—

First of all, this Bill was introduced in another place on the 23rd November, 1939; so the Bill had been before the public since then. The Bill was considered in detail in another place and the public had, therefore, sufficient opportunity of considering the provisions of this Bill and of offering any criticism or constructive suggestion if they wanted to do so. But we have not yet received any suggestion from the public.

Moreover, the Bill, as passed in the other place, consists of 6 clauses. Of these 6 clauses, clause 1 deals with the title of the Bill. Clause 2 deals with the question of serving of notices on co-sharer landlords in a rent suit. It is merely a formal matter of procedure. Clause 3 deals with the question of bringing the *kat kabalas* or conditional sale within the scope of section 26 (*G*). The clause limits right of the tenant to mortgage his land for more than 15 years. This is not a new principle. The House is already committed to it. The hon'ble members are aware that the Amending Act of 1928 restricted the right of an occupancy-*raiyat* to placing his holding under complete usufructuary mortgage for a period exceeding 15 years. Now, to get over this bar, the subterfuge that is often resorted to is that instead of executing a complete usufructuary mortgage the *raiyats* take resort to *kat kabalas* or conditional sale and other forms of anomalous mortgages. The intention of the Legislature was to prevent the *raiyat* from alienating his land for more than 15 years by means of complete usufructuary mortgage. That object of the Legislature has been frustrated by this subterfuge. The principle of restricting the *raiyat's* right of alienation through usufructuary mortgage has been accepted by the Council in the Amending Act of 1938. So, it is not a new principle which this clause seeks to introduce. I, therefore, venture to submit that there is absolutely no justification whatsoever for circulating the Bill for eliciting public opinion on this ground. The House is already committed to this principle. The clause only proposes to widen the scope of the section by bringing *kat kabalas* and anomalous mortgages within it. That is my first objection.

Now, I would draw the attention of the hon'ble members to clause 4 of the Bill. Clause 4 also does not seek to introduce any new principle. This House is already committed to the principle which underlies this clause, namely, that if there is no change in the boundaries of a holding there should be no additional rent for additional area. The Bengal Tenancy Act of 1939 amended section 52 and laid down certain principles which should be followed by a court in deciding

whether there has been any actual increase in area or not so as to prevent fraud being practised on the tenant on the ground that the area of his holding has increased by taking recourse to a different standard of measurement though the area actually remains the same. If the provision which has been incorporated in the second Bengal Tenancy Act is not followed, there may be cases in which the landlord has already granted reduction of rent to a tenant because of the gradual encroachment on his holding by another tenant on his neighbour's holding and that encroachment can only be proved by the fact that the latter's holding has increased in exactly the same proportion as the area of the tenant to whom reduction has been granted by the landlord has decreased. So, it is only fair that where the landlord has granted reduction he should be allowed to have increased rent with regard to the holding of the tenant whose area has increased proportionately. In order to do away with that anomaly, iniquity and unfairness this clause has been introduced. It does not seek to establish any new principle. I, therefore, maintain that there is no justification for the circulation of this Bill on account of this clause.

I draw the attention of the hon'ble members to clause 5 of the Bill. It certainly seeks to introduce a new principle.

Mr. PRESIDENT: We are now confined to the first motion for "circulation." You may discuss the principle of the Bill with better advantage when the second motion for reference to Select Committee is taken up.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I am trying to explain why circulation is not necessary.

Mr. PRESIDENT: All right.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: With regard to clause 5 of the Bill, as I just submitted, it does to some extent introduce a new principle, namely, that only the holding in arrear should be sold in execution of a rent decree and the landlord who had hitherto been permitted to realise his rent by proceeding against other properties of the judgment-debtor should not be allowed to do so. This question was thoroughly considered in this House and elsewhere in connection with the proposal to do away with landlord's power of realisation of rent through certificate procedure. It was suggested by several members of this House (speaking from memory) as well as elsewhere that this alternative right of the landlord to proceed either against the holding or against the other property of the judgment-debtor created considerable hardship to the tenant. There was a consensus of opinion that the landlord should be compelled to proceed against

the holding itself and out of deference to the wishes then expressed by the hon'ble members, Government have sought to introduce this new provision in this Bill. There is nothing on which public opinion is needed.

As regards clause 6 of the Bill, there is nothing new in it. Clause 6 seeks to give retrospective effect to section 52 of the Bengal Tenancy Act by bringing the provision in the second amendment of the Bengal Tenancy Act to the same lines as the provision in the Amending Act of 1938 by substituting the date of institution of suits for the dates of decrees so that not merely the section should be applicable with regard to cases in which decrees were passed on or after the 27th August, 1937, but if the suit was instituted before the 27th August, 1937, the provision of section 52 as amended should be applicable to such suits. So, there is nothing new in it. The House has already accepted the principle of retrospective effect in connection with the Amending Act of 1938 and this provision is only intended to bring the second amendment of the Bengal Tenancy Act, 1939, on the same lines with the provisions in the main Amending Act of 1938.

On these grounds, I maintain that there is no justification for the circulation of this Bill and I oppose the motion.

Sir, shall I speak on the motion of Mr. Ormond now?

Mr. PRESIDENT: No, not now.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I give out what the attitude of Government is regarding Mr. Ormond's points? Government would be glad to accept Mr. Ormond's motion, but I would like to suggest for the consideration of the House and the mover of the amendment that instead of the date being 21st March it should be 16th March, so that there might be clear seven days for putting in amendments.

Mr. PRESIDENT: The Committee will be at liberty to submit their report earlier if there is agreement between the members. "By the 21st" does not necessarily mean "till the 21st". The Hon'ble Minister may call meetings of the Select Committee earlier and finish the work. The question before the House is: the motion of Raja Bhupendra Narayan Sinha Bahadur, of Nashipur, that the Bill be circulated for the purpose of eliciting opinion thereon by the 30th of November, 1940.

(The motion was negatived.)

Mr. PRESIDENT: Is there any necessity to make a speech now, Mr. Ormond?

Mr. E. C. ORMOND: No, Sir. I have no desire to make a speech in view of what has fallen from the Hon'ble Minister and in view of the observations that have already been made as to the necessity for careful consideration in the matter. I am much obliged to the Hon'ble Minister for accepting my motion.

Mr. KAMINI KUMAR DUTTA: Sir, on behalf of my Party, I should indicate our attitude towards this motion for referring the matter to a Select Committee. So far as my Party is concerned, we are opposed to this. I may state very briefly the reasons for opposing this amendment. Indeed, Sir, the reasons which have been adduced by the Hon'ble Minister while opposing the motion for circulation would apply equally forcibly also to this particular amendment. If you analyse, Sir, the clauses, for example clause 3, you will find that this clause 3 has not enunciated any new principle at all. As a matter of fact, the principle enunciated in this clause had already been accepted even by this House when there was the original amendment of clause 26G.

Mr. PRESIDENT: Order, order. I should like to make one point clear. In referring this Bill to the Select Committee the House commits itself to the principle and nothing more. Only the wordings and other things may be changed. The difference between a circulation motion and a motion for reference to a Select Committee is that the House is committed in the latter case to the principle underlying the Bill. So, there is no necessity to argue that point. If the whole House is agreeable to accept the principle, reference to a Select Committee is the proper course.

Mr. KAMINI KUMAR DUTTA: Sir, after what has fallen from you as regards the principle, I need not dilate further on it. The principle of the Bill itself has been accepted. So, if there be any change and any alteration in the Select Committee it could be only with regard to the wordings of the clauses here and there so as to make them fit in with the principle underlying the Bill. But so far as the few sub-clauses go, it appears that the matter is so simple that ultimately no further consideration would be required in the Select Committee at all and the whole matter could be adjusted in this very House.

Khan Bahadur ATAUR RAHMAN: Sir, I agree with Mr. Kamini Kumar Dutta that this matter might be disposed of in this House instead of referring it to a Select Committee. It is a very simple Bill. So, I would request the Hon'ble Minister to agree to have the Bill taken up for consideration to-day or to-morrow.

Mr. HUMAYUN KABIR: Sir, I would like to add my voice in support of what has been said by the honourable Leader of the Opposition and Khan Bahadur Ataur Rahman. In my earlier speech also I made it clear that I am opposed both to the motion for circulation as well as to the motion for reference to a Select Committee, as the Hon'ble Minister himself has said that the principles which have been introduced in this Bill are principles with which we are familiar. They have been before the public for long and the principles have already been accepted by the Legislature generally. The Hon'ble Minister said that we are committed to accepting the principle and that only in one clause there is a slight extension of that principle. Therefore, Sir, there is no reason whatsoever to send it to a Select Committee. We can discuss it here on the floor of the House and, as has been said, if it is a simple Bill, a six-clause Bill, I do not see any reason why the Hon'ble Minister should now consent to send it again to a Select Committee. Although we are committed to the principle, yet we have seen more than once how the Select Committee has changed practically the whole Bill except the Preamble and the Short Title. Therefore, Sir, if we send it to a Select Committee, even though we accepted the principle, we do not know in what shape the same principle will come back to us again. Therefore, we are opposed to the Select Committee and want that the Bill should be considered on the floor of the House straightaway.

Mr. E. C. ORMOND: May I say only one or two words in reply? This matter may be entirely familiar to a lawyer such as my honourable friend, Mr. Kamini Kumar Dutta. But, Sir, even he has stated that the question, the main general question, has been the matter of several court cases, and that in itself shows the nature of the complication of the subject.

Now, Sir, there is another point. It may be that what is really in fault in the Bill is not what is included in the Bill but what is omitted. Undoubtedly, Sir, whether it is the omissions or the inclusions which need our consideration, it will be extremely difficult to decide here. I submit to all honourable members that, in spite of the speeches that have been made to the opposite effect, it will be extremely difficult for this House to do justice to the matters raised in this Bill merely by taking it into consideration straightaway. If we look at it from a practical point of view, if this Bill is now taken into consideration, you, Sir, will give us certain days. We should, under the rules, unless the time is lessened by you, Sir, for any particular reason, have ten days. Even if ten days' time is allowed to put in amendments, what happens? Honourable members put in amendments. It is not until those amendments have been put in that they can be considered by other honourable members. Then those amendments are considered hurriedly, and then

there is the debate on those amendments. That is the process of consideration of a Bill if it is taken up into direct consideration, whereas if it goes to a Select Committee one member of the Select Committee may make a certain suggestion by way of a tentative amendment and another member may show that there is a falsity in that suggestion and may make a counter-suggestion. That may be done in 5 minutes on the same day. Then, after that discussion another suggestion emerges and finally after a proper backwards and forwards discussion across a table, the Select Committee suggests certain alterations in the Bill for the consideration of the House.

With regard to what the honourable member, Mr. Humayun Kabir, said, viz., that he was opposed to this going to a Select Committee because the matter could have full consideration by the House, Sir, I submit that that is not so in the case of a Bill which is taken up for direct consideration, because all that can be done is that certain amendments can be put in and then those amendments can be considered. Now Mr. Humayun Kabir suggested that he was afraid that the Bill might come out differently from the Select Committee to what it is now. But, Sir, that makes no difference to the Bill that will eventually be passed by this House. If the House is in agreement with him in regard to his suggestions for the Bill, which may be extremely good, and if he has the House entirely on his side and in agreement with him that the suggestions which he wants to put into the Bill and the matters which he wants to omit from the Bill are good, he can carry these matters and have the Bill in that form when it leaves this House, irrespective of whether it comes to the House in a different form from the Select Committee or as it has now come from another place in a form which Mr. Humayun Kabir may not like.

Therefore, Sir, I say there is no substance in that contention that the Select Committee may alter the Bill. That is not the final Bill. The final Bill will be the Bill which this House passes and sends out. In view of the importance of the matter, Sir, I respectfully suggest to the members of this House that with their experience in the work of a Select Committee across a table where a suggestion can be made and a counter-suggestion can be made and counter-suggestions to that also can be made—all within five minutes or half an hour and the Committee can have several meetings—, it is obvious that better consideration of the matter can be given than merely if the whole matter were to be decided in two stages. Firstly, the Bill comes to this House from another place; then certain amendments are put in; members are given notice of that, and then those amendments only are debated upon. In that way, Sir, I suggest that we may be in danger of allowing this Bill to go out without consideration in exactly the same manner as it was allowed to go without consideration through another place. With

regard to what the Hon'ble Minister said in his previous speech about the Bill having had full consideration from the public, our point is this that the short-notice amendments have had no consideration either by the public or by another body or by this House. They have had no consideration anywhere. That being so, Sir, the provisions of this Bill are entirely novel, and I submit that in fairness to the House itself, if you wish to pass legislation which is not going to be labelled as a hasty piece of legislation and legislation such as demagogic bodies pass without due consideration, you will send this Bill to a Select Committee.

Mr. NARESH NATH MOOKERJEE: Sir, it gives me great pain to see prominent members of the European Group appeal to the House and to the Government to accept the motion for Select Committee. It seems Mr. Ormond does not realise the strong position that he and his Group hold here. After all, if there are any concrete suggestions or amendments that Mr. Ormond or his group wish to put forward, I think that he is in the happy position and in the strongest position to carry them through. His is not like the amendments sponsored by the Congress Group that they will have to appeal to all sections of the House and then when the matter is put to vote, the voting will result in a hopeless defeat (Laughter). I really appeal to Mr. Ormond to drop his amendment for reference to a Select Committee, but, on the other hand, to be strong and put in amendments and see that the Government accept them. After all, Sir, I think 4 or 5 days' reference to a Select Committee will make no difference. Let the matter be discussed in the House which is indeed a very small House and we are a "Select Committee" ourselves. The matter has been thrashed out in another place, and I do not think, Sir, the matter should be pressed here by Mr. Ormond for reference to a Select Committee. If he wants any amendments to be carried out, he can very well have them passed here.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, with regard to this subject I have only one serious difficulty and that is about the drafting of clause 5. I submit, Sir, that it should require very careful consideration. I am not very particular about going to the Select Committee or about considering it here on the floor of the House directly. My only difficulty at the moment is this that when I got the notice about the motion for reference to a Select Committee, I remained absolutely idle and did not send in my amendments. But provided the House is in a position to consider this matter very carefully and provided you would be pleased, as you have always been in cases of difficult drafting, to give us time to consider the drafting of this badly-drafted Bill, I think there is no great need to send it to a

Select Committee. But the real difficulty about considering this question on the floor of the House is that it does not allow the House th benefit of exchange of views.

Mr. HUMAYUN KABIR: On a point of order, Sir. Can w discuss any clause now when the decision on which can only be arrive at after the motion for consideration is accepted? He will get time fo moving amendments when the Bill will be taken up.

Mr. PRESIDENT: He was simply pointing out some difficultie with regard to clause 5.

Khan Bahadur NAZIRUDDIN AHMAD: I was only pointing out some difficulties for our present purpose.

Mr. PRESIDENT: The point made by Mr. Ormond is that in a Select Committee, across the table each of the members can speak several times and may come to a settlement. The time asked for submission of the Committee's report is not very long: it is only 7 days.

Khan Bahadur NAZIRUDDIN AHMAD: Personally, I should think that a Select Committee is extremely convenient. There we can sit together, discuss and exchange our views which we cannot do on the floor of the House.

The difficulties with regard to clause 5 are to my mind very serious. We have seen that many important Bills which came up here have required very careful consideration and considerable revision by this House. In these circumstances, I would be quite willing to accept the motion for reference to a Select Committee but our difficulty is that my party has not considered the matter.

The difficulty which I have felt is, as I have said, with regard to the drafting of this clause. This clause attempts to prevent a landlord from executing his decree against one of several co-sharer tenants.

If the clause is accepted in its present form, the same difficulty will remain, as there will be no difficulty on the part of the landlord in getting a decree against only one of several co-sharer tenants and then pretending to sell the whole holding. If he can get a decree against any one of the co-sharer tenants, the so-called sale of an entire tenure or holding will not be an effective remedy. In such a case, the right, title and interests of the judgment-debtor alone will pass in the sale. So, the difficulty which this Bill attempts to remove will remain

unsolved. The landlord will always be in a position to select his victim and get a decree against him alone so long as other parts of the Act are not changed. To obviate these difficulties, I think that the House should accept the motion for reference to the Select Committee, so that we may get sufficient time to consider the matter and make suitable amendments after careful consideration.

Mr. PRESIDENT: The Chair would like to make it clear, in view of the speeches of Mr. Naziruddin Ahmad and Mr. Ormond, that even if this motion for Select Committee is rejected and the Bill is taken into consideration, clause by clause, the Chair will have to give time to the honourable members to give notice of their amendments to the clauses of the Bill.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I would just like to explain the attitude of Government as regards the motion of Mr. Ormond, especially as this Bill was not referred to a Select Committee in another place. Since there is a motion for reference of the Bill to a Select Committee by an important group of this House, Government think that out of deference to the wishes of the members of that group they might accept the proposal, but they are not particularly anxious to refer the Bill to a Select Committee. They would gladly accept any decision that this House may take.

Mr. PRESIDENT: The question before the House is: that the Bengal Tenancy (Third Amendment) Bill, 1939, be referred to a Select Committee consisting of—

(1) The Hon'ble Sir Bijoy Prasad Singh Roy, Minister-in-charge of the Revenue Department,

(2) Khan Bahadur M. Abdul Karim,

(3) Khan Bahadur Naziruddin Ahmad,

(4) Mr. Khorshed Alum Chowdhury,

(5) Khan Bahadur Rezzaqul Haider Chowdhury,

(6) Khan Bahadur Saiyed Muazzamuddin Hossain,

(7) Rai Manmatha Nath Bose Bahadur,

(8) Dr. Radha Kumud Mookerji,

(9) Mr. Shrish Chandra Chakraverti,

(10) Mr. Bankim Chandra Datta, and

(11) the mover,

with instructions to submit their report by the 21st March, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

A Division was challenged and the House divided with the following result :—

AYES—29.

Ahmad, Khan Bahadur Naziruddin.
Ahmed, Mr. Nesbahuddin.
Baksh, Mr. Kader.
Banerjee, Rai Bahadur Keshab Chandra.
Barua, Dr. Arabinda.
Bose, Rai Bahadur Manmatha Nath.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Mr. Hamidul Huq.
Chowdhury, Khan Bahadur Rezzaqul Haider.
D'Rozario, Mrs. K.
Haider, Nawabzada Kamruddin.
Hosain, Khan Bahadur Saiyed Muazzamuddin.
Hossain, Mr. Latafat.
Hossain, Mr. Mohamed.
Hunter, Mr. H. C. A.
Karim, Khan Bahadur M. Abdul
Molla, Khan Sahib Subidali.
Momin, Begum Hamida.
Mukherji, Rai Bahadur Satis Chandra.
Ormond, Mr. E. C.
Rashid, Khan Bahadur Kazi Abdur.
Roy, Rai Bahadur Radhica Bhusan.
Ross, Mr. J. B.
Sarker, Rai Sahib Indu Bhusan.
Scott-Kerr, Mr. W. F.
Shamsuzzoha, Khan Bahadur M.
Singh Roy, Mr. Saileswar.
Sinha, Rai Bahadur Surendra Narayan.
Sinha, Raja Bahadur Bhupendra Narayan, of of Nashipur.

NOES—12.

Das, Mr. Lalit Chandra.
Datta, Mr. Bankim Chandra.
Dutta, Mr. Kamini Kumar.
Goswami, Mr. Kanai Lal.
Kabir, Mr. Humayun.
Maitra, Rai Bahadur Brojendra Mohan.
Mookerjee, Mr. Naresh Nath.
Mookerji, Dr. Radha Kumud.
Pal Choudhury, Mr. Ranajit.
Rahman, Khan Bahadur Ataur.
Ray, Mr. Nagendra Narayan.
Roy, Mr. Amulyadhone.

Mr. PRESIDENT: Order, order. The House has divided. The "Ayes" being 29 and the "Noes" 12, the amendment is carried. (After a pause.) The Council now stands adjourned till 2-15 p.m. on Wednesday, the 13th March.

Adjournment.

The Council then adjourned till 2-15 p.m. on Wednesday, the 13th March, 1940.

Members Absent.

The following members were absent from the meeting held on the 11th March, 1940:—

(1) Mr. Nur Ahmed,

(2) Mr. Humayun Reza Chowdhury,

(3) Khan Bahadur S. Fazal Ellahi,

(4) Khan Bahadur Alhadj Khwaja Muhammad Esmail,

(5) Khan Bahadur Syed Muhammad Ghaziul Huq,

(6) Khan Bahadur Maulvi Muhammad Ibrahim,

(7) Khan Bahadur Muhammad Asaf Khan,

(8) Maulana Muhammad Akram Khan,

(9) Mr. W. B. G. Laidlaw,

(10) Mr. H. G. G. MacKay,

(11) Rai Sahib Jatindra Mohan Sen.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Buildings, Calcutta, on Wednesday, the 13th March, 1940, at 2-15 p.m. being the tenth day of the First Session, pursuant to section 62(2)(a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

High cost of education in Bengal.

52. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN (on behalf of Mr. Nur Ahmed): (a) Is the Hon'ble Minister in charge of the Education Department aware that the high cost of education has been causing hardship to the poor and middle class people of Bengal?

(b) Will the Hon'ble Minister be pleased to state what measure he has taken or intends to take to reduce the cost of education in Bengal and to increase the percentage of expenditure on education by Government and Local Self-Governing bodies?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): (a) Yes.

(b) Additional funds have been allotted for grant of scholarships and stipends to poor and deserving students. Several schemes for giving additional assistance to such students are under consideration.

The Subdivisional Officer of Chandpur.

53. Mr. LALIT CHANDRA DAS: (a) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether it is a fact that Mr. Emdadali, Subdivisional Officer of Chandpur, bound down in January last several Congress workers including, among others, Sj. Nibaran Datta and Sj. Amulya Mukherjee for having carried on agitation against the present Ministry on the ground that the Ministry represents 95 per cent. of the people and any agitation against them is likely to result in breach of the peace?

(b) Is it the intention of the Government to prevent opponents of the Ministry from trying to secure a majority in the country in order to overthrow the Ministry?

(*c*) What steps does the Government intend to take to prevent Magistrates punishing the opponents of the Ministry in the way Mr. Emdadali has done?

(*d*) Is Mr. Emdadali a member of the Moslem League? And is it true that he took active part in the organisation of a branch of the League in the subdivision of Chandpur and attended some of its meetings?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Khwaja Sir Nazimuddin): (*a*) to (*c*) I am informed that an appeal has been filed against the order and is pending in the Sessions Court.

(*d*) No. No.

The extension of the service of the Chief Executive Officer of the Calcutta Corporation.

54. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: (*a*) Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department kindly state if he is aware that the Services Standing Committee of the Corporation of Calcutta have recommended the extension of service of the present incumbent for the office of the Chief Executive Officer for three years with effect from the 1st April, 1941?

(*b*) Is it a fact that the Corporation of Calcutta is going to be reconstituted after the General Elections to be held within a few months according to the Amended Calcutta Municipal Act?

(*c*) What are the reasons for granting extension to this officer for more than a year before the expiry of the period of his service?

(*d*) Is it a fact that this extension order was rushed through the Corporation with a view to preventing the reconstituted Corporation from exercising their judgment and discretion in the matter of this appointment?

(*e*) Will this extension order be binding on the reconstituted Corporation when they come to office?

(*f*) Is it a fact that the age of the present Chief Executive Officer is already sixty?

(*g*) Is it a fact that he is in bad health?

(*h*) Are not responsible officers asking for extension of service, even after 60, required to appear before a Medical Board?

MINISTER in charge of PUBLIC HEALTH and LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): (*a*) Government have no information besides what has appeared in the newspaper reports.

(*b*) A General Election under the Amended Calcutta Municipal Act is due to be held on the 28th March, 1940.

(*c*) and (*d*) Government have as yet no information on these points.

(*e*) As no further extension has yet been sanctioned, this question does not arise.

(*f*) No.

(*g*) Government have no such information.

(*h*) So far as the officers mentioned in section 51 (*1*) of the Calcutta Municipal Act are concerned, the answer is in the negative.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: With reference to answer (*e*), is the Hon'ble Minister aware that since the notice of this question was given, an extension has been granted?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: Yes, by the Corporation.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is it necessary for the Corporation to come to Government for approval?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: It has to come to Government for approval.

The Works of Judicial Officers of the district of Noakhali.

55. Khan Bahadur REZZAQUL HAIDER CHOWDHURY: Will the Hon'ble Minister in charge of the Judicial Department be pleased to state—

(*a*) whether the volume of work of Judicial Officers (Munsiffs) in the district of Noakhali have considerably diminished owing to the establishment of the Debt Settlement Boards;

(*b*) whether the number of criminal cases have increased in the said district; and

(*c*) if the answers to paragraphs (*a*) and (*b*) above be in the affirmative, whether it is in the contemplation of the Government to invest the Munsiffs with powers to try criminal cases?

The Hon'ble Mr. H. S. SUHRAWARDY (on behalf of the Hon'ble Nawab Musharruff Hossain, Khan Bahadur): (*a*) Yes.

(*b*) No. On an examination of figures available, the number of cases is less than in previous years.

(*c*) Does not arise.

Notices of amendments to non-official Bills.

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: I have the honour to give you notice that I desire to move in the current session of the Bengal Legislative Council the following amendment to Rai Surendra Narayan Sinha Bahadur's motion that his Bill for the amendment of the Bengal Municipal Act, 1932, be referred to a Select Committee, viz.—

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st December, 1940."

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: I have the honour to give you notice that I desire to move in the current session of the Bengal Legislative Council the following amendment to Mr. Kader Baksh's motion that his Bill for the amendment of the Calcutta Improvement Act, 1911, be taken into consideration, viz.—

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st December, 1940."

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I beg to give notice of the following amendment to the motion of Khan Bahadur Saiyed Muazzamuddin Hosain, that the Bengal Agricultural Debtors (Amendment) Bill, 1938, be referred to a Select Committee at the session of the Council to be held on the 15th March, 1940:—

"That the Bill be circulated for the purpose of eliciting public opinion thereon by the 31st December, 1940."

The Bengal Finance (Amendment) Bill, 1940.

Mr. PRESIDENT: The House will now resume consideration of the Bengal Finance (Amendment) Bill, 1940.

Clause 1.

Clause 1 stand part of the Bill.

(After a pause.)

The question before the House is: that clause 1 stand part of the Bill.

(The motion was agreed to.)

Clause 2.

Mr. PRESIDENT: Clause 2 stand part of the Bill.

Mr. RANAJIT PAL CHOUDHURY: I beg to move that in clause 2 of the Bill, before the word "prescribe" in line 3, the words and comma "after previous publication and discussion with the leaders of the principal parties in the legislature," be inserted.

Sir, my object in moving this amendment is to have a *via media* between what we had passed before and what Government is now proposing to enact. As far as I remember, the Finance Minister, in his speech last time when this Bill was discussed, agreed to have a discussion with some members of the Council. He also agreed to publish the rules and according to the rules he has to publish them. So, I hope he will accept this amendment because it is more or less harmless and will pacify the members to a certain extent. With these words, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that in clause 2 of the Bill, before the word "prescribe" in line 3, the words and comma "after previous publication and discussion with the leaders of the principal parties in the legislature," be inserted.

The Hon'ble Mr. H. S. SUHRAWARDY: I regret that I have to oppose this amendment. May I state here that it is the declared intention of Government,—an intention which if I do not fulfil I can be called to account for before this House,—to publish the rules before they are actually prescribed. The idea of this publication is to receive opinions, suggestions, and objections from the members of the public and from any honourable member of this House who may be disposed to voice such an opinion. Sir, I do not think there is a single Bill or Act in which discussions with leaders of the principal parties of the legislature have been provided for. How many parties there are and which are the principal parties, is very difficult to visualise.

There may be certain definite parties or there may be other parties of two or three who may consider themselves as important as any other party and who would like to be considered principal parties, whereas others may not put them in that category. Whether there have been discussions, and adequate discussions with principal parties and as to what are the principal parties will always remain vague. I have no doubt that the honourable member realises that this amendment is not a practical one. He has made certain suggestions. I have, however, already made an offer to this House that not only will I publish the rules before they are formally passed, but I am prepared even after publication and after the rules have been passed to discuss them on the floor of the House and get opinions of the members in case they have any objection to the rules. I would like to take the legislature into our confidence straightaway at this stage, so that if they agree with the principles which I have decided to follow in the matter of determining the classes of persons which should get "exemptions", the honourable members may be disposed to withdraw the amendments they have tabled.

As at present advised, we do not propose to prescribe rules exempting more than three classes of persons. Firstly, we propose to frame rules for the purpose of giving marginal relief. I explained this fully on the last occasion and I cited as an example the case of a person who earns Rs. 1,999. He will continue to have that money without any decrease, the person who earns more, say Rs. 2,020, will ultimately receive only Rs. 1,980 that is to say he will be worse off than the person who is earning less. Therefore, we propose to prescribe certain levies or fees which will not reduce the income below Rs. 2,000. I think that is a fair proposition and all the members of the legislature will agree that something like that is essential for the purpose of giving relief to those persons who will be so penalised.

Secondly, we propose to meet the cases of those who are assessed to income-tax and from whom we have realised Rs. 30 and whose assessment is cancelled. If their income-tax is annulled then they ought to get back Rs. 30 from Government. We propose to give them relief.

The third category to whom we may give relief will be persons who have been temporarily posted to Bengal belonging to the army for war purposes. Those persons are not residents of Bengal. They do not earn money in Bengal. They have been posted here for defence measures and they, in our opinion, may be exempted.

These are the only three classes whom we propose to exempt and if the House is of opinion that the proposition of Government is reasonable, I hope they will not press any further amendments and the honourable member, Mr. Ranajit Pal Choudhury, will withdraw his amendment.

Mr. HUMAYUN KABIR: After the extremely reasoned statement of the Hon'ble Mr. Suhrawardy, I would not have stood up, but I would only like to make one or two suggestions. Sir, the Hon'ble Minister himself admits that the draft rules will be published in the official gazette before they are finally prescribed. If that be so, what harm is there in recognising in the body of the Statute itself the adoption of this principle? If he has accepted the principle, he might as well embody it in the body of the Statute itself.

With regard to the question of discussion with leaders of the principal parties in the legislature, there may be difficulties about determining which should be regarded as principal parties no doubt, but there are in the legislature certain recognised parties and in both the Houses of the Legislature a criterion has been laid down which distinguishes parties from non-parties. For instance, if I remember aright, in this House you have laid down that unless there are 6 members or more working together in a group, that is not recognised as a party. Similarly, I believe, in the Lower House also a figure of 18 or 20 has been fixed for constituting a party. Therefore, the difficulty on the ground of the indefiniteness or indeterminateness of the party does not arise.

Then, Sir, there is another aspect to which I would draw his attention. This amendment of Mr. Pal Chowdhury only wants that the Ministers should have discussion with the leaders of the recognised parties. There is nowhere any suggestion that this discussion should be binding on the Ministers. The Hon'ble Minister will perhaps ask: if there is any such discussion and supposing there is no agreement, what will happen? But he need not at all be afraid of that. After all, what this amendment wants is that the rules shall be previously published in the *Gazette* and also that there will be an interchange of opinion between the leaders of the recognised parties and the Government. Here, I think I should draw his attention to a statement which he made and which is probably not quite accurate about consultation with the leaders of parties in the framing of statutes. In this House, no doubt it has not been the custom up till now. But in many other places it is the recognised custom of consulting the Opposition, so much so that the Leader of the Opposition is regarded as having a share in the framing of particular statutes which might be placed before the Houses of Legislature. I think it is the uniform practice in the British Parliament to consult the Opposition because, the Opposition consists as much a part of the administrative machinery of Government as the Ministers themselves. Therefore, that difficulty also does not arise—particularly in view of the fact that the opinions expressed by the party leaders will not be binding upon the Ministers. The discussion does not commit the Ministers to the acceptance of the opinion of the leaders of the other parties but only gives the Ministers

an opportunity of knowing their points of view. I think, in view of this, the Hon'ble Mr. Suhrawardy will reconsider his opinion and accept the amendment which has been suggested by Mr. Pal Chowdhury.

The Hon'ble Mr. H. S. SUHRAWARDY: Can I speak now, Sir?

Mr. PRESIDENT: You have no right of a second speech now.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, in view of the explanation given by the Hon'ble Finance Minister, I think we need not in a small measure like this, press the matter to a logical conclusion. On principle, I should think that no rule-making power should be given to Government which would have the effect of legislation through Government Departments. But the present question is a very small one and the Hon'ble Minister has made it clear that he would confine his rules to only three specific subjects, namely, (*i*) giving the marginal relief, (*ii*) refund of the tax where the income-tax itself has been excused by a higher Income-tax authority and (*iii*) in the case of Military officers who are temporarily posted to Bengal for military purpose but who are not permanent or ordinary residents of Bengal.

Khan Bahadur ATAUR RAHMAN: And not to the members of this Council?

Khan Bahadur NAZIRUDDIN AHMAD: I think the measure could have been passed more easily, as has been suggested by my honourable friend, Khan Bahadur Ataur Rahman, if the relief could be extended to members of the Council. (Laughter.) I should ask the Hon'ble Minister to seriously consider this suggestion. In view of the obvious and just nature of the rules, I do not think it necessary to press the matter further. But the question of broad principle remains. We do not yield in regard to the broad principle that Government should not be given wide and unrestrained rule-making powers. In fact, they should not be given blank signed cheques, which could be filled up by them at their pleasure.

The point that was made the other day by Khan Bahadur Abdul Karim was this: that we should not trust the Government with wide, unrestricted powers of legislation through rules so as to virtually supercede the Legislature. We adhere to this principle. A significant thing has happened since the passing of the original Finance Bill in this House. Since then an amendment has been inserted in the Bengal Money-lenders Bill in another place which has incorporated the principle of rule-making with the approval of the Legislature.—the very principle against which the Hon'ble Minister is fighting. I find that this was agreed to by the Hon'ble Minister at that time. He agreed that rules

must be framed by Government regarding the exclusion of notified banks, subject to the approval of the Legislature. It is clear, therefore, that the principle is not denied that we should put some sort of a check on unrestrained rule-making power. As I have submitted, the present matter is a small one and in this case we do not wish to go very far. The matter has been very carefully discussed in a book written by a great authority—Lord Gordon Hewert, England's brilliant Lord Chief Justice. His thesis was briefly referred to by the Hon'ble Minister the other day. I have the book in my hand. Lord Hewert has given very powerful and cogent reasons as to why rule-making powers of an unrestrained character should not be given to Government. Every important Statute giving rule-making power to Government clearly restricts the power of the Government in this respect and indicates the line along which the rules must be shaped. In the present case, the power is absolute but as I have already submitted that the contemplated rules will be restricted to only three small items and so we do not wish to press the matter any further.

Mr. PRESIDENT: The question before the House is:

that in clause 2 of the Bill, before the word "prescribe" in line three the words and comma "after previous publication and discussion with the leaders of the principal parties in the Legislature," be inserted.

A Division was challenged and the House divided with the following result:—

AYES—10.

Chakraverti, Mr. Shrish Chandra.
Das, Mr. Lalit Chandra.
Datta, Mr. Narendra Chandra.
Dutta, Mr. Kamini Kumar.
Kabir, Mr. Humayun.
Maitra, Rai Bahadur Brojendra Mohan.
Mookerji, Dr. Radha Kumud.
Pal Choudhury, Mr. Ranajit.
Roy, Mr. Amulyadhone.
Sanyal, Mr. Sachindra Narayan.

NOES—26.

Ahmad, Khan Bahadur Naziruddin.
Ahmed, Mr. Mesbahuddin.
Baksh, Mr. Kader.
Barua, Dr. Arabinda.
Chowdhury, Khan Sahib Abdul Hamid.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Mr. Hamidul Huq.
Chowdhury, Khan Bahadur Rezzaqul Haider.
Cohen, Mr. D. J.
D'Rozario, Mrs. K.
Hosain Khan Bahadur Saiyed Muazzamuddin.
Hossain, Mr. Latafat.
Hossain, Mr. Mohamed.
Karim, Khan Bahadur M. Abdul.
Khan, Khan Bahadur Muhammad Araf.
Laidlaw, Mr. W. B. C.
Momin, Begum Hamida.
Rahman, Khan Bahadur Ataur.
Rahman, Khan Bahadur Mukhlesur.
Rashid, Khan Bahadur Kazi Abdur.
Ross, Mr. J. B.
Roy, Rai Bahadur Radhica Bhusan.
Roy Chowdhury, Mr. Krishna Chandra, O.B.E.
Scott-Kerr, Mr. W. F.
Shamsuzzoha, Khan Bahadur M.
Singh Roy, Mr. Saileswar.

Mr. PRESIDENT: Order, order. The House has divided; the 'Ayes' being 10 and the 'Noes' 26, the motion is negatived.

Mr. RANAJIT PAL CHOUDHURY: Mr. President, Sir, I beg to move another more harmless amendment. The amendment is that in clause 2 of the Bill, before the word "prescribe" in line three, the words and comma "after previous publication," be inserted.

Sir, this is a very mild amendment and, according to the present rules and according to the assurance just given by the Hon'ble Minister, publication necessarily follows; but to make it more sure and more or less obligatory on the Government by way of a statutory assurance, I move this amendment for the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that in clause 2 of the Bill, before the word "prescribe" in line three, the words and comma "after previous publication," be inserted.

(After some pause.)

May I take it that no honourable member desires to take part in the debate on this motion?

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, the honourable member admits that the law is such that we shall have to resort to previous publication. I do not see any reason for having a redundant clause in the Act itself. I think the honourable member will accept the assurance of Government that there will be previous publication.

Mr. PRESIDENT: The question before the House is: that in clause 2 of the Bill, before the word "prescribe" in line three, the words and comma "after previous publication," be inserted.

(The amendment was negatived.)

Mr. KAMINI KUMAR DUTTA: I beg to move that for the word "prescribe", the words "frame rules subject to the approval of the Provincial Legislature for" be substituted.

Mr. PRESIDENT: The amendment is not in order. This amendment is exactly a negation of what the Government desire to introduce by clause 2. If you oppose the final passage of the Bill, the effect will be the same. I hold that this amendment is out of order.

Mr. PRESIDENT: The question before the House is: that clause 2 stand part of the Bill.

(The motion was agreed to.)

Mr. PRESIDENT: The question before the House is: that the Title and Preamble be added to the Bill.

(The motion was agreed to.)

The H(Mr. H. S. SUHRAWARDY: I beg to move that the Bengal Finance (Amendment) Bill, 1940, as settled in the Council, be passed.

I desire to thank the honourable members for their consideration and for their courtesy in passing the various clauses of this Bill. We have had various speeches on the subject, but I want to assure the honourable members that we have no desire whatsoever to take advantage of the Legislature. The rule-making powers which Government will take to itself will be as few as are consistent with administrative efficiency. I hope that the honourable members will pass the Bill as has been settled in the Council.

Mr. PRESIDENT: Motion moved: that the Bengal Finance (Amendment) Bill, 1940, as settled in the Council, be passed.

Dr. RADHA KUMUD MOOKERJI: I beg once more to enter my emphatic protest against the passage of this measure, especially in view of the circumstances that have led the Government to bring forward this amending Bill. I have already explained on a previous occasion that the Government are bent upon curtailing the very little powers that have been left to this House in the matter of legislation and also in the matter of Finance. There is absolutely no new fact which the Government has been able to produce since the amendment to the original Bill was passed by this House unanimously. The Bill, as amended, was sent back to the other House and it has come back again with the old reactionary feature that characterised the original Bill. I wish to repeat the general position on which our opposition rests. It should not be understood that our opposition is only for the sake of mere opposition, that it is a sort of destructive criticism. On the contrary, our opposition rests on very fundamental constitutional grounds. The position simply is that the subject of granting exemptions from taxation where they are required should not occupy so much attention of Government as to deserve this extraordinary procedure by which they want their administrative power to be extended. I take it that there should be a general rule not to grant exemptions; but if exemptions are to be granted, they will perhaps form about one per cent. of the total number of cases to which taxation will apply. I, therefore, think that for the sake of one per cent. of cases of possible exemptions, Government should not absolutely change the position as it was settled in the Upper House. The subject-matter may be of very little importance as it is on the face of it, but i raises constitutional issues of great importance so far as this House is concerned. The issues are so grave, as I had explained on the previous occasion, that they have formed the subject of a regular treatise written by the Chief Justice of England whose book I quoted for the

first time in this House on the last occasion. One of my friends here has sought to find evidence to prove that bureaucracy is entitled to enlarge its sphere of independent action without reference to the Legislature. On the contrary, Lord Hewart's book was written for a quite different purpose, as the title of the book shows. The title is "New Despotism". The book deals with a new type of despotism which is undermining the very foundation of democracy all over the world. There is an eternal quarrel between the Executive and the Legislature. The Executive always wants greater and greater freedom to so act as to be independent of the Legislature as far as possible, because it is the belief of the Executive that they are the experts whose actions should not be liable to discussions in a Legislature. That sort of bureaucratic irresponsible mentality is at the root of these measures whereby power is taken by force out of the Legislature to make the Executive supreme in the matter of acting in the discharge of grave responsibility. I deliberately use the words "grave responsibility" because the Executive is trying to take to itself this power to tamper with a scheme of taxation in any way they please. Of course, the defence would be that the cases of exemptions would be very very rare and unimportant. If so, why should you not take the Legislature into your confidence and lay all your cards on the table? Let us examine here on the spot the classes of exemptions you are prepared to give. Why not say so in the Bill itself? Then the Legislature can understand what kind of cases they would themselves exempt from taxation. Why take this blank cheque dealing with a taxation measure in any way you like? It is thus a principle that is involved in this Bill. On the last occasion, I was supported very enthusiastically by the Leader of the party which keeps the Government in power and upon whose votes Government depend to carry through a reactionary proposal of this character whereby the Upper House will be again taught a lesson, because it ventured to bring the Government to their senses some time back. This sort of undue pressure is being exerted upon the Upper House by the strength of a majority which I cannot but compare with the strength of brute force. This sort of physical pressure of a vote should not be exercised on an occasion like this. I do hope that so far as constitutional principles are concerned, my friend on the opposite, the Leader of the Coalition Party, would once again adhere firmly to the views with which I am in complete agreement.

So, I put before the House only two small points. Pray leave the thing as it is. As regards exemption you can even now find out what classes of exemptions you want so that they may be dealt with by the legislature at once. Some kind of procedure may be adopted as is suggested here. Of course, all the amendments have been turned down by the ruthless application of the brute force of majority votes, but I hope that Government would still see their way to accepting some kind of compromise whereby constitutional principles may be safeguarded.

I do hope that my friend, the Leader of the Coalition Party, would not change his opinion now at this stage and will reiterate the opinion that he had expressed on the first occasion.

Khan Bahadur M. ABDUL KARIM: Sir, I am passed that age when people are generally influenced by emotions and I had no mind to speak on this occasion, but simply because the Deputy Leader of the Opposition has asked me to stick to my former opinion and support him in this matter of throwing out the Bill, I do so. I have always been a practical man of business. Especially being a lawyer, I have studied human nature and have studied the actualities of the situation. Of course, theoretically I still adhere to that opinion that it was very unkind and unjust of the Provincial Government to have come forward with a Bill of this nature. I still adhere to that opinion as a lawyer that it was a constitutional affront shown to this House in bringing a Bill like that. But after hearing the Hon'ble Finance Minister during the Second Reading stage, I and my party find ourselves quite prepared to meet the Government half-way. Having regard to the difficulties to be experienced by the Government, as stated, we see no other alternative but to accept the present proposal. As a matter of fact, the mistake lay with this House to some extent. After careful reading of the proceedings of last year and also of this year, I came to know that this Bill was originally passed by the Lower House and then it came up to this House and here this proposal was made because the House of Elders are more jealous of their constitutional rights than any other House. Therefore, they insisted that the present Executive should not be given the full power. They should be given power subject to the approval of the Legislature. This amendment was made here, it went back to the Lower House as usual and probably out of deference to our opinion the Lower House accepted that change and it was passed into law. After seven months, Government come up to this House and here I have a very serious grievance against the Government. It is this that they want the modification of the proposal which was accepted by the Lower House. It was only in the fitness of things that the Government should have brought this amending Bill in the Upper House and should not have placed it in the Lower House in the first instance, because it seems to me that probably Government is under the impression——

Mr. PRESIDENT: Order, order. There seemed to be a difficulty for the Government. Ordinarily, Finance Bill should originate in the Lower House.

Khan Bahadur M. ABDUL KARIM: I submit to your ruling but it seems to me that section 82 does not apply here because we are not going to impose a taxation. It is an amendment to a Bill that has already been passed. However, I bow to your ruling.

We are considering it to be a real grievance. Probably the Government thought that if they could get the Lower House to pass it, the Upper House would easily climb down thinking that in a joint session the verdict of the other House would numerically prevail (Dr. RADHA KUMUD MOOKERJI: House of dummies!). That was probably in the contemplation of Government. Our grievance is that they did not come to us in the first instance.

Mr. PRESIDENT: I think there is some misapprehension in the mind of the Leader of the Coalition Party in this matter. This House has as much right to amend or reject any Finance Bill but Finance Bills, in other parliamentary institutions also, originate in the Lower House.

Khan Bahadur M. ABDUL KARIM: Thank you, Sir. That may be an apprehension or misapprehension that we are actually labouring under. I simply give vent to a feeling that is uppermost in the minds of all of us. To that extent my grievance is that the Government has done us some wrong.

Dr. RADHA KUMUD MOOKERJI: But I love the Government still!

Khan Bahadur M. ABDUL KARIM: Yes, with all their faults, we love them. (Laughter.) And as the Hon'ble the Finance Minister has pointed out that only in three specified classes of cases they are going to exercise the right, we find that there can be no apprehension and that such power can safely be delegated to them.

Dr. RADHA KUMUD MOOKERJI: It has no statutory definition.

Khan Bahadur M. ABDUL KARIM: Although we are opposed to a Bill on technical grounds, for practical considerations and as practical men, we have no objection to accept the last proposal, the last appeal of the Hon'ble the Finance Minister when he gives us the assurance that the power delegated to them will never be abused. In view of that assurance, we have no other alternative but to support Government on this issue.

Dr. RADHA KUMUD MOOKERJI: Let him give a statutory assurance, please.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I would not have risen once again in the debate on this Bill but for some remarks of Dr. Radha Kumud Mookerji. Dr. Mookerji, in dealing with legal

questions, would, as usual, wander away from the subject. He thinks that rule-making power is unknown in the world. But if he would carefully read the last important Bill that was passed by this House, i.e., the Bengal Money-lenders Bill, and if he would take care to read a number of Acts which provide for rule-making powers, he would probably discover that rule-making power is very common and the Government has been given the power by many Acts and will, in spite of Dr. Mookerji's scepticism, be given the same powers in many future Acts. The only difficulty in this case is that there is rule-making power without indicating the lines on which the Government was to work. The power is general and unrestricted. Dr. Mookerji also merrily characterised the majority vote as "brute force". I do not know whether he was serious about this expression or whether he was fully conscious of the implications of the words when he uttered them. If the majority vote is brute force, the minority vote must then be divine force!

Mr. HUMAYUN KABIR: Rather spiritual force.

Khan Bahadur NAZIRUDDIN AHMAD: Yes, spiritual force (Laughter). In order to attain full spiritual salvation I think the Doctor should give up the world and its prizes and go to the jungles, where, if he can give up all worldly desires he so much loves, he can attain complete *nirvan* or ecstatic cessation of all bodily and mental activities. Sir, I simply wanted to register my humble objection to the expression "brute force".

Dr. RADHA KUMUD MOOKERJI: Why did you pass it last time? That is my point; what happened to you then?

Mr. PRESIDENT: Order, order.

Khan Bahadur NAZIRUDDIN AHMAD: You passed it, but we opposed it. The Doctor's memory is again failing.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Mr. President, Sir, I am sorry to have to oppose the motion for passing the Bill. I do so not only for the fair name and prestige of this House which I feel would be considerably lowered in the estimation of the public if this Bill is passed, but also on the merits of the question itself.

Sir, as my friend the Leader of the Coalition Party has already said, this amending Bill has a long history behind it. This Bill first originated in the Lower House and then it came up to this House. This House amended a clause thereof. Then it went back to the Lower

House and the Lower House accepted that amendment. Sir, this gives a clear indication of the fact that the people of this province recognized that the Bengal Finance Bill which was amended by this House was a correct piece of legislation. Now, Sir, Government has thought of bringing in another Bill to modify a section of that Act. Sir, I do not think you will find any country in the world where the Government have brought forward any Bill to amend or modify a section of a legislation without giving the provisions thereof a fair trial. We would not have had the least objection if the Act had been given a fair trial for some time and if it was found after that trial that the Act was difficult to work in practice. We would have welcomed such a procedure. But in the present case, no trial has been given—not even for a single day—and Government have brought forward this Bill to amend what has been passed by this House.

Sir, I would ask my European friends in this House to ponder over the fact whether in their own country or in any other country such a procedure has been followed. I would ask them to say whether any legislative measure has been amended without first examining the results of its working. Sir, I think this is one of the most important points to be considered. Apart from this, when we have a clear case that the original Bill was passed by this House with an amendment and that that amendment was accepted by the Lower House, I do not think that any one should have come forward to justify the present move of the Government in bringing in another Bill, without violating his sense of propriety. It is not desirable that Government should be a party to this sort of irregular action. We always believe that Government will ultimately and in the long run do justice to the people of this province after impartially considering the pros and cons of any matter. If that be so, Sir, then I do not see why the Government should be so very anxious for having more power in their hands. If the Government were to act fairly and impartially, then no one would object. I should once more like to emphasize the fact that the action of Government on the present occasion is not at all justifiable, for it gives rise to a suspicion in the mind of the people.

Then, Sir, let me turn to the question of the publication of the rules. I might say at the outset that the rules are always published. They are published not for the purpose of inviting criticism but for the information of the public in general. The other day Mr. Ormond said that rules framed under any statute or Act have the same effect as the law itself. As regards the rules, there is no difference between the sections of the Act and the rules framed thereunder—that is what I understood Mr. Ormond to say. The rules are generally made under a certain section of the Act empowering the Government in that behalf. But the present case is quite different. In the present case, we deal with the "ordinary" rules, and we empower Government to exempt

certain persons, certain individuals, from the operation of the Act. So, Sir, Government are in the present case asking for more powers than is usually the case. I submit that this sort of power should be incorporated in the Statute. We thought, Sir, that Government could be vested with rule-making powers provided these rules were submitted for the approval of the Legislature. I am sorry to find that the attitude of Government in this matter is rather unbending.

Sir, as regards the assurance of the Hon'ble Finance Minister that the draft rules will be published in the *Gazette*, I cannot but be thankful to him for this—however small the mercy is. What I want is to see a convention grow up under which such things would be unnecessary. Sir, I have nothing further to add.

Mr. J. B. ROSS: Mr. President, Sir, in rising to support the motion before the House, I wish to take this opportunity of clarifying the attitude of the European Group towards this Bill. In the ordinary course of events, we consider it extremely undesirable and unwise to give Government a blank cheque in regard to any matters of legislation. But with regard to the Bill in point, we feel that Government are at the moment faced with certain circumstances which would not occur in more normal times. In view, therefore, of the specific assurance given by the Hon'ble Finance Minister that any rules which may be prescribed by Government would first be published in draft, which will give us an opportunity of criticising them, we support the motion that the Bill be passed.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I am sorry I am unable to agree with the Raja Bahadur of Nashipur. But I would like to assure him once more that neither the prestige nor the powers nor the privileges of this House are at stake, nor are they attempted to be minimised in any possible way.

Sir, I do not wish to adduce very long arguments such as those put forward by me at the time of the second reading of the Bill. At that time, I had made it abundantly clear that the rule-making powers are necessary under certain circumstances. So long as we do not transgress those powers, I see no reason why the Legislature should hesitate to give such powers to Government. May I point out once more to Dr. Radha Kumud Mookerji, as it seems that he has forgotten what I stated on the last occasion, the two financial Bills which give to their respective Governments far more powers than what we are asking for ourselves here? There are similar provisions under section 60 of the Indian Income-tax Act and also under section 8 of the Central Provinces and Berar Finance Act. Therefore, in Finance Bills also rule-making powers are accorded to Government; and we have not done anything which is outside our jurisdiction but, on the other hand, is in

consonance with similar measures adopted by other Provinces. I hope, Sir, that after the statement which I have made, honourable members will pass this Bill.

Mr. PRESIDENT: Motion moved: that the Bengal Finance (Amendment) Bill, 1940, as settled in the Council, be passed.

(After some pause.) The question before the House is: that the Bengal Finance (Amendment) Bill, 1940, as settled in the Council, be passed.

(The motion was agreed to.)

Order, order. The Council stands adjourned till 2-15 p.m. on Friday, the 15th March.

Adjournment.

The Council then adjourned till 2-15 p.m. on Friday, the 15th March, 1940.

Members absent.

The following members were absent from the meeting held on the 13th March, 1940:—

(1) Mr. Nur Ahmed.
(2) Rai Bahadur Keshab Chandra Banerjee.
(3) Mr. Moazzemali Chowdhury.
(4) Mr. Humayun Reza Chowdhury.
(5) Khan Bahadur S. Fazal Ellahi.
(6) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(7) Mr. Kanai Lal Goswami.
(8) Nawabzada Kamruddin Haider.
(9) Mr. H. C. A. Hunter.
(10) Khan Bahadur Syed Muhammad Ghaziul Huq.
(11) Khan Bahadur Maulvi Muhammad Ibrahim.
(12) Alhadj Khan Bahadur Shaikh Muhammad Jan.
(13) Maulana Muhammad Akram Khan.
(14) Mr. H. G. G. MacKay.
(15) Rai Bahadur Satis Chandra Mukharji.
(16) Mr. H. P. Poddar.
(17) Rai Sahib Jatindra Mohan Sen.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Buildings, Calcutta, on Friday, the 15th March, 1940, at 2-15 p.m. being the eleventh day of the First Session, pursuant to section 62 (2) (a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

Resolution relating to the Shooting Incident at Caxton Hall, London.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Mr. President, Sir, before the business of the House is taken up, may I have your leave to move a resolution in connexion with the dastardly outrage that was recently committed at a meeting in London?

Mr. PRESIDENT: Yes.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to move—

"This House places on record its deep sense of horror and abhorrence at the dastardly outrage at the Caxton Hall meeting in London on the 13th March last and expresses its deepest sympathy with Lady O'Dwyer and other members of the bereaved family on their loss and offers sincerest congratulations to the Right Hon'ble the Marquess of Zetland, Secretary of State for India and former Governor of Bengal, Lord Lamington, and Sir Louis Dane on their providential escape."

Sir, it is a matter of sincere regret that when the atmosphere in India is so peaceful and when Indian public opinion seems to be overwhelmingly in favour of non-violence, one of the most distinguished members of the Indian Civil Service should have been so cowardly done to death in London. The House, however, received with a great sense of relief and profound gratitude the information of the providential escape of the Marquess of Zetland, Secretary of State for India and a former Governor of Bengal, than whom Bengal nay India, I venture to think, has no greater friend and greater well-wisher. The House also welcomes with a sense of relief the news of the providential escape of two other eminent Englishmen who had served India in the past, I mean Lord Lamington and Sir Louis Dane. Sir, such thoughtless acts in the past did considerable injury to India and to our political progress, and I am confident that this unhappy incident will receive

condemnation in unmistakable terms throughout the length and breadth of India. Sir, I hope it is the desire of the House that our sincerest sympathy should be conveyed to Lady O'Dwyer and to the members of the bereaved family in their great loss and that our congratulations should be offered to the Marquess of Zetland, to Lord Lamington and Sir Louis Dane on their providential escape. The House fervently prays for their recovery from the injuries that they have sustained in this outrage. With these few words, Sir, I commend my motion to the acceptance of the House, which, I hope, will be unanimously carried.

Mr. KAMINI KUMAR DUTTA: Sir, on behalf of my party, I associate myself fully with the motion which has been put before the House by the Hon'ble Sir Bijoy Prasad Singh Roy. I endorse fully the remarks that have fallen from him. It is the accepted creed of the Congress party to which I have the honour to belong to regard violence of any kind as detrimental to the best interest of our country. Sir, I find no language to express adequately our condemnation of the cowardly act which has been committed. We are not to-day concerned with the history of the province over which Sir Michael O'Dwyer had ruled. To-day, we need not recall those unhappy incidents the memory of which would only embitter our feelings on an occasion like this. The incident referred to in the resolution placed before the House calls for unmitigated condemnation from all sections of the people.

To Lady O'Dwyer, we convey our sincere feelings of condolences. At the same time, we must also express our feeling of congratulations for those highly-placed officials who have been spared serious danger to their lives by the mercy of the Providence. I do again say that we, as Congressmen, do sincerely believe in the cult of non-violence, and we do sincerely feel also that all acts of violence would only be a hindrance to further constitutional progress for our country.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Mr. President, Sir, I beg to associate myself with what has been said by my honourable friend, Sir Bijoy Prasad Singh Roy, in recording our condemnation of the heinous outrage that has been committed in London on the 13th March last. No words would be adequate to condemn the act which has been done by an Indian at this critical juncture in the history of Indo-British relations. Sir, it is a matter of gratification to us that the life of Lord Zetland and two other members of the Indian Civil Service had been saved, and it is also a matter of great satisfaction to us that the fair name of Bengal has not been tarnished on this occasion.

Sir, I beg to associate myself and my party with the expression of the deep sense of sorrow with Lady O'Dwyer at her sad bereavement and also of congratulations to Lord Zetland, who was once the Governor of this Province and who is not only a friend of Bengal but also of India. It is through the mercy of Providence that he has been saved and we congratulate ourselves on that account.

Mr. E. C. ORMOND: Mr. President, Sir, I also wish to associate myself on behalf of my party whole-heartedly with the motion and with the words in which it has been moved by the Hon'ble Minister. I am sure, Sir, that it will be no little heartening support to the Marquess of Zetland and other Englishmen, who are doing their duty to the best of their lights and to their fullest capacity in England,—their duty, as they see it, to this country,—it will be no small support to them, Sir, to read and have information of the terms in which this entirely useless, entirely unthinking and entirely profitless crime has been condemned. And though words may be of little use to one in the position of Lady O'Dwyer to-day, I venture to believe that it may even be some little, some more than slight, consolation to her to know that, however much any individual or parties in India may differ from any policy with which Sir Michael O'Dwyer was associated, at least there are no small number of public men in India who fully respect the sincerity of his motives and fully appreciate that there may be two views as to what is best for a country at a particular time. I hope, Sir, it will be no small consolation to Lady Michael O'Dwyer in her irreparable loss to know that all parties have joined in this motion of condolence and condemnation which is before the House.

Khan Bahadur M. ABDUL KARIM: Sir, when the heart is filled with disgust and indignation, the mouth speaketh not. I and members on this side of the House fully associate ourselves with all that has fallen from the previous speakers. We express our severest condemnation of these dastardly acts. It is the desire of this side of the House that condolences and congratulations respectively must go to the widow of Lady O'Dwyer and Lord Zetland and the other two victims of the outrage.

Mr. PRESIDENT: The Chair joins with the honourable members of the Council in condemning severely the dastardly assassination of Sir Michael O'Dwyer. The whole of India has been profoundly shocked at what happened at the Caxton Hall meeting on the 13th instant. We extend our sincerest sympathy to Lady O'Dwyer in her great bereavement. We are also thankful to God that Lord Zetland, Lord Lamington and Sir Louis Dane were miraculously saved and pray for their speedy recovery.

The question before the House is: that this House places on record its deep sense of horror and abhorrence at the dastardly outrage at the Caxton Hall meeting in London on the 13th March last and expresses its deepest sympathy with Lady O'Dwyer and other members of the bereaved family on their loss and offers sincerest congratulations to the Right Hon'ble Marquess of Zetland, Secretary of State for India and former Governor of Bengal, Lord Lamington and Sir Louis Dane on their providential escape.

(The motion was unanimously agreed to.)

QUESTIONS AND ANSWERS

Deterioration of the Moslem candidates in the Bengal Civil Service Examination.

56. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: (*a*) Is the Hon'ble Minister in charge of the Home Department aware that in the competitive examination for the Bengal Civil Service the quality of the Moslem candidates has been steadily deteriorating from year to year?

(*b*) Is he aware that the percentage of Moslem candidates securing minimum pass marks has come down to 36 per cent. from 75 per cent. which was the case some years ago?

(*c*) Does he propose to appoint a Committee with the Assistant Director of Public Instruction for Moslem Education and the Special Officer for controlling communal percentage in the Public Services as members, for enquiring into the causes of the failure of a large percentage of Moslem candidates in securing minimum pass marks and making suggestions for ensuring that candidates of better type may sit for such examination?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) and (*c*) No.

(*b*) At the examination in February, 1939, 64 per cent. failed to qualify in the written papers.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, in reply to a question in this connexion put some time back, it was stated that only three years ago the percentage of failures used to be 25, whereas now it has gone up to 64. Is it not a matter of great concern?

The Hon'ble Khwaja Sir NAZIMUDDIN: That is a matter of opinion.

Water-supply problem by tube wells under the District Boards of Bengal.

57. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: (*a*) Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department kindly state if he is aware that most of the district boards of Bengal are not being able to provide any money from their own finances for sinking of tube wells, and ferro-concrete wells for solving the drinking water-supply problem?

(*b*) Is he aware that the average life of a tube well is only 5 to 6 years?

(*c*) Is it the idea of Government that the loans will be repeated after every 5 years or so?

(*d*) Does the Government propose to appoint a committee for studying the water-supply problem and drawing up a comprehensive programme with definite suggestions as to the finances for capital expenditure and for repairs?

MINISTER in charge of the PUBLIC HEALTH and LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): (*a*) No.

(*b*) to (*d*) The hon'ble member is referred to the answers to (*a*), (*c*) and (*f*) respectively of question No. 1 of the current session.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is the Hon'ble Minister aware that in certain districts there are ferro-concrete wells instead of tube-wells?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: I am not aware of that fact.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is it not necessary that some definite scheme should be worked out for the whole of Bengal as to how to solve this water-supply problem, because, at present, as it is happening, every district is spending money in its own way without knowing when they will be suddenly stranded?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: I have already answered a similar question of the honourable member in this very House.

Mr. RANAJIT PAL CHOUDHURY: Is the Hon'ble Minister taking statistics as to how many tube-wells are in order and how many out of order?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: I am afraid, not, Sir.

Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister take those statistics to find out the results for the benefit of the people of the villages?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: These are matters for the district boards.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Are we to follow a policy of drift in the matter of sinking tube-wells without knowing where we are?

Mr. PRESIDENT: Order, order, next question.

The Electoral Rolls of the General and Anglo-Indian Constituencies of the Calcutta Corporation.

58. Rai Bahadur SURENDRA NARAYAN SINHA: (*a*) Has the attention of the Hon'ble Minister in charge of the Public Health and Local Self-Government Department been drawn to representations made by individuals and by organisations in respect of the incorrect preparation of the Preliminary Electoral Rolls for the General and Anglo-Indian Constituencies for the Sixth General Municipal Elections to the Corporation of Calcutta?

(*b*) If so, what action has been taken?

(*c*) Is it a fact that a large number of Anglo-Indians whose names are on the Final Electoral Roll of the Bengal Legislative Assembly (Anglo-Indian Constituency), have been included in the Preliminary Electoral Rolls of the Wards Nos. 15, 16 and 17 of the General Constituency of the Corporation of Calcutta?

(*d*) If so, on what evidence were these Anglo-Indians shown in the General Constituency Rolls?

(*e*) Who is responsible for the correct preparation of the Electoral Rolls?

(*f*) What action does the Hon'ble Minister propose to take regarding the removal of those names from the Final Electoral Rolls of the General Constituency?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: (*a*) Certain allegations to this effect were received by Government.

(*b*) The representations received by Government were forwarded to the Registering Authority for necessary action under the rules.

(*c*) and (*d*) Certain allegations to this effect were received by Government. The hon'ble member is referred to the reply given on the 26th February, 1940, to clause (*a*) of question No. 27.

(*e*) The Electoral Roll is prepared by the Registering Authority, but is subject to such corrections as may be made by the Revising Authorities under the rules.

(*f*) Under section 25 (*3*) of the Calcutta Municipal Act, the Electoral Roll, as published after being amended by the Revising Authorities, is final and Government have no power to modify it in any way.

Mr. NARESH NATH MOOKERJEE: Will the Hon'ble Minister be pleased to state whether the vote of an Anglo-Indian whose name has been included in the voters' list of the General Constituency by mistake will be valid if cast in favour of a candidate who is standing from the General Constituency?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: That is a question of law and I cannot say anything off-hand.

Mr. PRESIDENT: That is a matter of opinion.

People living near the Reserve forests of Chittagong.

59. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN (on behalf of Mr. Nur Ahmed): (*a*) Will the Hon'ble Minister in charge of the Forest and Excise Department be pleased to state in detail the measures adopted by the Government of Bengal to give relief to the villagers living near the Reserve forests in respect of their grievances regarding the operation of the Forest law and rules and also of *raiyatees* and licence fees payable by them?

(*b*) Is it a fact that the Hon'ble Chief Minister during his last visit in January, 1939, assured the people of Chittagong that he would remove their main grievances regarding Chittagong forest administration? If so, what steps have been taken by Government up to this time to implement the Chief Minister's assurances? If so, what are they?

MINISTER in charge of the FOREST and EXCISE DEPARTMENT (the Hon'ble Mr. Prasanna Deb Raikut): (*a*) It has been decided that those parts of the Protected forests which contain no valuable timber should be disafforested and a Committee is to be appointed to consider the best use to be made of such lands, for the purpose of providing village grazing grounds. Steps have already been taken to examine

the Protected forests with a view to giving effect to the above policy and although the complete examination will take time, considerable progress has been made.

(2) Certain concessions designed to provide indigent persons with free thatching material other than *san* grass have been granted and persons not paying Union Board taxes can now obtain free passes for such materials.

(3) Firewood passes are now no longer required to be taken out by persons who have taken out permits for grazing in the Reserve and Protected forests.

(4) Two *shikaris* have been employed to kill wild elephants damaging crops and strict measures have been taken to prevent corruption among the subordinate staff of the department.

(*b*) The Hon'ble Chief Minister gave assurance that he would investigate the grievances of the people and would remove such as were found to be legitimate. As regards the implementation of this assurance of the Hon'ble Chief Minister, the member is referred to my answer to the first part of the question.

Scholarships for technical education in Mining.

60. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister in charge of the Industries Department kindly state how many scholarships or stipends for technical education in Mining were granted by the Government of Bengal in each of the last 5 years, and how many of the stipend-holders were Muslims each year?

MINISTER in charge of the INDUSTRIES DEPARTMENT (the Hon'ble Mr. Tamizuddin Khan): A statement is placed on the table.

Statement referred to in the reply to question No. 60.

Year.	Number of scholarships awarded by the Government of Bengal.	Number of Muslim scholars.
1934-35	4	Nil
1935-36	4	Nil
1936-37	4	Nil
1937-38	4	Nil
1938-39	5*	Nil

*Includes one granted for 7 months from 1st April, 1938, as a special case.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state if those stipends were notified or advertised?

The Hon'ble Mr. TAMIZUDDIN KHAN: Yes; I think so.

Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister be pleased to state if no qualified Muhammadan candidates were available for any of those stipends?

The Hon'ble Mr. TAMIZUDDIN KHAN: I am sorry to say that so far Muhammadan students did not come up.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state if those stipends were notified in any Muhammadan paper such as *Azad*?

The Hon'ble Mr. TAMIZUDDIN KHAN: For this particular information, I want notice.

Khan Bahadur ATAUR RAHMAN: Was any attempt made by the Government to secure Muhammadan candidates?

The Hon'ble Mr. TAMIZUDDIN KHAN: I do not think any particular attempt was made in the past to secure Muslim students for this purpose. I am thinking of examining the question regarding the feasibility of fixing a certain percentage of these scholarships for Muslims and publishing the same, so that intending students might know it.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: What is the minimum qualification for this stipend?

The Hon'ble Mr. TAMIZUDDIN KHAN: For admission, students ought to sit for a test examination. The initial qualification is either I.A. or I.Sc. standard with either Physics or Chemistry.

Mr. KAMINI KUMAR DUTTA: May I mention here, Sir, that we have got a real grievance about the programme of business which is fixed for the meetings of the Council. As a matter of fact, Sir, no programme is settled at all. We admit that it is not possible to have a complete programme of business for the whole session in advance; but it is certainly possible to have

a tentative programme subject to slight alterations as occasions may require. But what actually happens is this. We have nothing like a settled programme. A programme which is once circulated is again altered and a new programme without any previous intimation is sprung upon us. No doubt, our duty is to attend the Council and to perform our functions here; but at the same time, we have got other business also to attend to. And often we have to wait for several days without any work to do in this Council. So, really this constitutes a great hardship on us. We must have a tentative programme of business giving us an idea of the work which would come up for consideration by the Council during the session. Things cannot go on in the haphazard way in which they have been going on so long. As it is, honourable members of the Council have absolutely no idea of the programme of business and very often new business comes upon us all on a sudden which causes serious inconvenience to the members coming from the mufassil.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I fully appreciate the difficulties mentioned by the Leader of the Opposition. I propose that in future if any change is to be brought about in the programme of business, the Government Whip will always bring the matter to the notice of the Opposition Whip beforehand.

Mr. PRESIDENT: Order, order. The practice in the British House of Commons is that on Fridays the Leader of the Opposition enquires of the Leader of the House about the programme for the next week. In the Central Legislature, a tentative programme is settled between the President and the Leader of the House. Of course, there may be alterations in it as necessity arises; but they try to stick to their programme. I understand here also, the Government will, as far as practicable, follow a similar procedure in future.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir.

Messages from the Assembly.

The SECRETARY (Dr. S. K. D. Gupta): Sir, I have received the following messages signed by the Hon'ble Speaker of the Bengal Legislative Assembly:—

(1) "The Bengal Legislative Assembly, at its meeting held on the 12th March, 1940, agreed to the amendments made by the Council in the Bengal Agricultural Debtors (Amendment) Bill, 1939."

(2) "The Bengal Legislative Assembly, at its meeting held on the 12th March, 1940, agreed to the Bengal Workmen's Protection (Amendment) Bill, 1939, as passed by the Council, without any amendments."

(3) "The Bengal Legislative Assembly, at its meeting held on the 12th March, 1940, agreed to the Inland Steam Vessels (Bengal Amendment) Bill, 1939, as passed by the Council without any amendments."

Laying on Table of Bills passed by the Assembly.

The SECRETARY (Dr. S. K. D. Gupta): Sir, I have received the following messages signed by the Hon'ble Speaker from the Bengal Legislative Assembly:—

(1) "The Bengal Non-Agricultural Tenancy (Temporary Provisions) Bill, 1940, as passed by the Bengal Legislative Assembly at its meeting held on the 12th March, 1940, has been duly signed by me and is annexed herewith. The concurrence of the Bengal Legislative Council to the Bill is hereby requested."

(2) "The Official Trustees (Bengal Amendment) Bill, 1940, as passed by the Bengal Legislative Assembly at its meeting held on the 12th March, 1940, has been duly signed by me and is annexed herewith. The concurrence of the Bengal Legislative Council to the Bill is hereby requested."

(3) "The Administrator-General's (Bengal Amendment) Bill, 1940, as passed by the Bengal Legislative Assembly at its meeting held on the 12th March, 1940, has been duly signed by me and is annexed herewith. The concurrence of the Bengal Legislative Council to the Bill is hereby requested."

Sir, I herewith lay on the Table the following Bills, passed by the Bengal Legislative Assembly at its meeting held on the 12th March, 1940, namely:—

(1) The Bengal Non-Agricultural Tenancy (Temporary Provisions) Bill, 1940,

(2) The Official Trustees (Bengal Amendment) Bill, 1940, and

(3) The Administrator-General's (Bengal Amendment) Bill, 1940.

Notices regarding Bills passed by the Assembly.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I have the honour to intimate that on the 19th March, 1940, I shall move on the floor of this House that the Bengal Non-Agricultural Tenancy (Temporary Provisions) Bill, 1940, as passed by the Assembly, be taken into consideration and passed.

In this connection, I crave your indulgence for permitting notices of amendments to be accepted at short notice.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I have the honour to inform you that on the 19th March, 1940, I shall move that the Official Trustees (Bengal Amendment) Bill, 1940, as passed by the Assembly, be taken into consideration and passed.

I have the honour also to inform you that on the 19th March, 1940, I shall move that the Administrator-General's (Bengal Amendment) Bill, 1939, as passed by the Assembly, be taken into consideration and passed.

The Hon'ble Mr. TAMIZUDDIN KHAN: I beg to give notice that at the current session of the Bengal Legislative Council I shall move by way of amendment to the motion for consideration of the Bengal Water-hyacinth (Amending) Bill, 1938, by Khan Bahadur Saiyed Muazzamuddin Hosain that the Bill be referred to a Select Committee consisting of—

(1) Khan Bahadur Saiyed Muazzamuddin Hosain,
(2) Mr. E. C. Ormond,
(3) Mr. Kamini Kumar Dutt,
(4) Rai Bahadur Radhika Bhushan Roy,
(5) Mr. Nur Ahmed,
(6) Khan Bahadur Ataur Rahman,
(7) Khan Bahadur Maulvi Razzakul Haidar Chowdhury,
(8) Khan Bahadur Mukhlesur Rahaman,
(9) Khan Bahadur Maulvi Muhammad Ibrahim,
(10) Mr. Khorshed Alam Choudhury, and
(11) the mover,

with instruction to submit their report by the 30th June, 1940, and that the quorum of the Select Committee be fixed at five.

I would request you to accept notice of this amendment at short notice.

Non-official Bills.

Mr. PRESIDENT: The House will now consider non-official Bills.

Mr. KADER BAKSH: I beg to move that the Calcutta Improvement (Amendment) Bill, 1940, be taken into consideration.

This is a very small Bill. At the outset, I would like to assure you that my object in bringing in this Bill is not to exclude any particular community or class of people from acquiring land under the Improvement Trust; my object is rather to prevent monopolisation by certain community or class of people in the matter of acquisition of improved plots of land under the system maintained and encouraged by that Trust and to afford some facilities and fair privileges to the children of the soil to live in the land of their birth.

To make myself more clear and to be better understood, a brief history of the machinery by which the working of the Improvement Trust is carried on would, I hope, be not considered irrelevant.

The fund which forms the nucleus of the Improvement Trust is derived, as you all know, from two main sources—first, the jute tax of about 14 lakhs, and, secondly, the terminal tax. The former is exclusively contributed by the people of Bengal and the latter also by Bengalees, at least to the extent of 90 per cent. These two sources form the basis of the working capital of the Improvement Trust.

Then, the next chapter of this history I propose to place before you. The plots which are acquired under the scheme and subsequently improved originally belonged either to the Mussalmans or to the Hindus of Bengal. They have been, and are being, driven out from their hearths, and homes, as if only to make room for the capitalists and speculative foreigners. I do not grudge this class of people acquiring plots of land for the purpose of residence, but I most emphatically protest against the activities of this class of people in acquiring plots solely for the sake of speculation, thereby depriving the people of Bengal from getting plots even for residential purposes. Therefore, my object is to put a check on such unholy activities on the part of capitalists and speculative foreigners, by bringing about a change in the system and the working of the machinery of the Calcutta Improvement Trust.

This system, Sir, may very well be spoken of as a policy like that of "robbing Peter to pay Paul".

Then, Sir, at first a plot is acquired and improved and then a price is fixed on it after due consideration, and it is advertised for sale by

the Improvement Trust. What generally happens in most cases thereafter, is this: applications are submitted by people for settlement. When a Bengalee puts in such an application—a non-Bengalee capitalist comes in and contests. The Trust then puts that plot to auction, with the inevitable result that in the competition the Bengalee has often to give way to his capitalist non-Bengalee opponent. By this peculiar working of the machinery, which the Trust has started without any justification, the Bengalees are being ousted from Calcutta, and it is no wonder that by this process the majority of the Bengalee community, both Hindus and Mussalmans, will be driven out of Calcutta in the near future.

Then, again, Sir, there is another very dark side of this system. The capitalists and the speculators, who are ninety-nine per cent. foreigners, have formed themselves, I am reliably informed, into rings and groups and they bid at the auction beyond any conceivable proportion, with a view to keep out the Bengalees from acquiring land and thereafter sell these plots in small portions to Bengalee at a much higher price, sometimes at a cent. per cent. profit. When there is no competition, the plot is settled at the fixed price with the non-Bengalee applicant.

You all know that Calcutta had been invaded from the North by non-Bengalees and it is now being invaded from the South, with the result that the Bengalees are being pressed into a very small area in the centre of the city.

Sir, I consider this system, alluded to above, as an evil of the worst type. It is to remedy this evil, to put a check on the speculative nature of the system of disposal of improved plots by the Improvement Trust and also to put a check on the unholy activities of several rings and groups and to save Calcutta from going out of the hands of Bengalees—both Mussalmans and Hindus—that I have introduced this Bill.

The Improvement Trust fixes the price of each improved plot, as I have already said, after due consideration. There is no justification why it should be put up for auction when a Bengalee is willing to pay the fixed price for the plot which originally belonged to him or to a brother of his. This system of profiteering should not be carried on by the Improvement Trust. Therefore, Sir, my proposition in the Bill is to settle the land with a Bengalee in preference to a non-Bengalee, when there is such an offer and not to allow any bid by any non-Bengalee competitor.

Then, Sir, when there is a competition between two or more Bengalees, preference should be given to the first applicant.

The non-Bengalee residents of Calcutta have got by this time plots of land far beyond their number and their necessities. Now, the Improvement Trust should cry "Halt" to the non-Bengalees and settle lands with the children of the soil in cases where there are Bengalee applicants ready to pay the fixed price.

Moreover, Sir, a Bengalee wants improved plots of land for residential purposes in 95 per cent. of the cases, whereas a non-Bengalee wants improved plots for the purposes of speculation in 95 per cent. of the cases. To cite an instance—a case which is within my own personal knowledge. A non-Bengalee gentleman who got improved plots in Park Circus only four years ago from the Improvement Trust at Rs. 2,000 per *cottah* has now put the price at Rs. 3,000 per *cottah* for sale. This is speculation pure and simple. Instances may be multiplied, but this is not necessary as it is well known to you all.

I can assure my non-Bengalee friends, who are mostly capitalists and speculators, that I have no axe to grind against them; neither do I propose to ask them to leave Calcutta and go back to their respective provinces, nor do I propose to debar them from acquiring plots necessary and sufficient for their residence; but I must clearly tell them that time has come when Bengalees must assert their right not to be robbed of their hearths and homes by non-Bengalees—not to be deprived of their legitimate right to live in Calcutta but to be allowed to live in this great city. As this is not possible by making appeals to hard-hearted people like these foreigners, I want to achieve my end by means of legislation.

Sir, I have ascertained the views of a large number of people, both Mussalmans and Hindus, on this Bill of mine. Public opinion is in my favour—rather public feeling has been roused throughout the province over this important matter, and the entire Bengalee people have been watching with every keen interest the fate of my Bill.

Therefore, Sir, I beg of you all to consider the Bill most dispassionately and with the utmost care which it deserves.

With these words, Sir, I beg to commend my motion to the acceptance of the House.

Mr. PRESIDENT: Motion moved: that the Calcutta Improvement (Amendment) Bill, 1940, be taken into consideration.

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: Sir, I find that there is another motion standing in the name of Mr. Mesbahuddin Ahmed. I would prefer to——.

Mr. PRESIDENT: Order, order. My Mesbahuddin Ahmed should first move his amendment and then the Nawab Bahadur of Dacca should reply.

Mr. MESBAHUDDIN AHMED: Mr. President, Sir, I beg to move that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st December, 1940.

Mr. PRESIDENT: Amendment moved: that the Calcutta Improvement (Amendment) Bill, 1940, be circulated, for the purpose of eliciting opinion thereon by the 31st December, 1940.

Mr. NARESH NATH MOOKERJEE: On a point of information, Sir. I take it that this Bill is designed to prevent a particular class of people or individuals from getting control and having a monopoly of lands sold by the Improvement Trust. Sir, may I ask the sponsor of the Bill as to how he proposes to prevent those communities whom he chooses to exclude from acquiring land? If they form a limited company or a Trust or a "Cartel" or a building society for this purpose, how can one, in all fairness, debar it from buying large tracts of land by dubbing it as a monopolistic concern? I shall be glad to hear from my friend, Mr. Kader Baksh, what he has got to say on this point.

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: Sir, I have heard with a great deal of interest the speech which has been delivered by my honourable friend, Mr. Kader Baksh. Although I have the fullest sympathy with his ideals, I am afraid I cannot support his present motion. My first difficulty is that my department has not yet been able to consider and examine this Bill in all its aspects. Sir, it is necessary that we should consult not only the Calcutta Improvement Trust but also the Calcutta Corporation and other public and recognized bodies, inasmuch as an important principle is involved in the Bill, namely, to shut out one section or sections of Indians from purchasing property in Calcutta. If we were to do that, I do not know what will be the effect, what will be the reaction. All these things will have to be very carefully and thoroughly considered by Government before they can arrive at any conclusion. Therefore, Sir, I would request my friend Mr. Kader Baksh, to accept the motion which has been moved by Mr. Mesbahuddin Ahmed. Let the mover give us some time to go into the whole question and I am sure we shall be able to find out some solution which would meet his case.

In any case, Sir, let me assure Mr. Kader Baksh that we do not wish to oppose the underlying principle of his Bill altogether. What we want to do is to consider the present Bill in all its aspects and see if it is possible to bring in a Bill of our own in the light of the provisions of the Bill which he has moved to-day.

Mr. PRESIDENT: I take it that there is no other member who desires to take part in the discussion.

Rai SURENDRA NARAYAN SINHA Bahadur: May I, Sir, rise on a point of information? What is the meaning of the expression "non-Bengalee", as used by my friend, Mr. Kader Baksh?

Mr. KADER BAKSH: I mean the Marwaris, Sindhis, and Bhatias.

Mr. NARESH NATH MOOKERJEE: And not the Europeans?

Mr. KADER BAKSH: They have got practically no lands here, and even so, whatever they have got is very small. (Laughter.)

Mr. NARESH NATH MOOKERJEE: What about the Punjabis?

Mr. KADER BAKSH: Sir, in view of the difficulties referred to by the Hon'ble the Nawab Bahadur of Dacca in accepting my motion, viz., that Government had not had sufficient time to examine this question in all its bearings and also in view of the kind assurance given by him that he fully appreciates the necessity for a Bill of this character and that Government might bring in a Bill after a full consideration of the matter, I would beg leave of the House to withdraw motion. I accept the amendment of Mr. Mesbahuddin Ahmed——.

Mr. PRESIDENT: But if you withdraw your motion, the question of your accepting Mr. Ahmed's motion does not arise at all.

Mr. KADER BAKSH: Sir, I am sorry that there was a *lapsus linguae* on my part. What I meant was that I accepted the motion of Mr. Ahmed, (laughter), viz., that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st May, 1940.

Mr. PRESIDENT: In putting the original motion that the Bill be taken into consideration, the Chair might be confronted with a constitutional difficulty. When I went through the text of the Bill, I found that there was nothing to which objection could be taken on constitutional grounds. But the speech which the honourable mover has just made in moving his motion raises a doubt in my mind that the Bill might come within the mischief of section 298(*1*) of the Government of India Act, 1935, where it is laid down that—

"No subject of His Majesty domiciled in India shall on grounds only of religion, place of birth, decent, colour or any of them

be ineligible for office under the Crown in India, or be prohibited on any such grounds from acquiring, holding or disposing of property or carrying on any occupation, trade, business or profession in British India."

As I have indicated, according to the provisions of the Bill there is really no apparent objection to its being discussed, but in his speech the honourable member made it clear that he wants that a certain class of Indians—non-Bengalee Indians—should be debarred from acquiring lands and prohibited from acquiring or holding property in this province. However, the motion for consideration is not before the House now.

Mr. PRESIDENT: The question before the House is: that the Calcutta Improvement (Amendment) Bill, 1940, be circulated for the purpose of eliciting opinion thereon by the 31st December, 1940.

(The motion was agreed to.)

The Bengal Abolition of Dowry Bill, 1939.

Rai SURENDRA NARAYAN SINHA Bahadur: I beg to move: that the Bill be referred to a Select Committee consisting of—

(1) The Hon'ble Nawab Musharruff Hossain, Khan Bahadur, Minister in charge of the Judicial and Legislative Departments,

(2) Mr. Ranajit Pal Chowdhury,

(3) Mr. Naresh Nath Mookerjee,

(4) Raja Bhupendra Narayan Sinha Bahadur,

(5) Mr. Nagendra Narayan Roy,

(6) Mr. W. B. G. Laidlaw,

(7) Khan Bahadur Maulvi Muhammed Ibrahim,

(8) Begum Hamida Momin,

(9) Mr. Humayun Kabir,

(10) Dr. Arabinda Barua, and

(11) the mover,

with instructions to submit their report by the 25th March, 1940, and that the number of members whose presence shall be necessary to form a quorum shall be five.

Mr. PRESIDENT: Motion moved: that the Bill be referred to a Select Committee consisting of:—

(1) The Khan Nawab Musharruff Hossain, Khan Bahadur, Minister in charge of the Judicial and Legislative Departments,

(2) Mr. Ranajit Pal Chowdhury,

(3) Mr. Naresh Nath Mookerjee,

(4) Raja Bhupendra Narayan Sinha Bahadur,

(5) Mr. Nagendra Narayan Roy,

(6) Mr. W. B. G. Laidlaw,

(7) Khan Bahadur Maulvi Muhammed Ibrahim,

(8) Begum Hamida Momin,

(9) Mr. Humayun Kabir,

(10) Dr. Arabinda Barua, and

(11) the mover,

with instructions to submit their report by the 25th March, 1940, and that the number of members whose presence shall be necessary to form a quorum shall be five.

Mr. MESBAHUDDIN AHMED: I beg to move: that for the personnel of the Select Committee proposed by the member in charge of the Bill, the following be substituted, namely:—

(1) The Hon'ble Nawab Musharruff Hossain, Khan Bahadur, Minister in charge of the Judicial and Legislative Departments,

(2) Khan Bahadur M. Abdul Karim,

(3) Mr. Kader Baksh,

(4) Mr. Hamidul Huq Chowdhury,

(5) Khan Sahib Abdul Hamid Chowdhury,

(6) Khan Bahadur Ataur Rahman,

(7) Mr. E. C. Ormond,

(8) Mr. Kamini Kumar Dutta,

(9) Mr. Shrish Chandra Chakraverti,

(10) Mr. Naresh Nath Mookerjee, and

(11) Rai Surendra Narayan Sinha Bahadur,

and for the figure and word "25th March" appearing in the last paragraph of the original motion, the figure and word "31st March" be substituted.

Mr. PRESIDENT: Amendment moved: that for the personnel of the Select Committee proposed by the member-in-charge of the Bill, the following be substituted, namely:—

(1) The Hon'ble Nawab Musharruff Hossain, Khan Bahadur, Minister in charge of the Judicial and Legislative Departments,

(2) Khan Bahadur M. Abdul Karim,

(3) Mr. Kader Baksh,

(4) Mr. Hamidul Huq Chowdhury,

(5) Khan Sahib Abdul Hamid Chowdhury,

(6) Khan Bahadur Ataur Rahman,

(7) Mr. E. C. Ormond,

(8) Mr. Kamini Kumar Dutta,

(9) Mr. Shrish Chandra Chakraverti,

(10) Mr. Naresh Nath Mookerjee, and

(11) Rai Surendra Narayan Sinha Bahadur,

and for the figure and word "25th March" appearing in the last paragraph of the original motion, the figure and word "31st March" be substituted.

Before the matter is discussed, I would like to point out to the House that the mover of the resolution Rai Surendra Narayan Sinha Bahadur will cease to be a member of this House from the 4th of April next. If the amendment is accepted, this Bill will have no chance of being considered. Even if it returns from the Select Committee on the 31st March, there will be no non-official day available immediately. The next non-official day after that date would be Friday the 5th of April, and that means practically the killing of this Bill.

Rai SURENDRA NARAYAN SINHA Bahadur: Therefore, I request the mover of the amendment and the Hon'ble Minister to accept my motion as it is.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I feel real difficulty in accepting the motion of my friend, Rai Bahadur Surendra Narayan Sinha. The position is this: we are in the midst of the Budget session and we have not got even one minute's time to devote to any other work except what is already before us. If the Bill were of lesser importance than the present one, then we would not have objected to its reference to a Select Committee. But as you all know, this Bill is of very great importance and wants to suppress an evil which has been in existence for at least 150 years. Besides, as

so many interests are involved in it, it cannot be lightly dealt with. When this matter was being discussed, one of the most influential Hindu members of the Coalition Party said that this was a very very serious matter and to hurry a Bill like this in this House might lead to disaster. Personally, I do not want to do a thing so hurriedly, but I can assure the House this much that if the Bill survives this session or even if the Bill is killed and a non-official member wants to bring in a Bill exactly on the same lines in this House, then I will help him to the utmost of my ability. At present, we have got so much work to do and the time is so short that I am afraid that some wrong might be done by any hasty action of ours. It may be that what we are aiming at doing may not bring any good. If there were no differences of opinion amongst the members of this House, I would not have hesitated to plunge myself into this arduous task. But when I see that the members are divided and they say that it should not be so lightly dealt with, I cannot lightly brush aside their opinion. This being the position, I would ask my friend to wait (A VOICE: He will not have a chance to wait.) If another member carry it on, there will be no difficulty.

Mr. PRESIDENT: It will not be possible for any other member to carry this particular Bill. He will have to bring in a fresh Bill.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: My position is this. It is a Bill of a most controversial nature. We cannot say all on a sudden that a man who will spend more than Rs. 500 for a marriage will be sentenced to imprisonment for six months. This requires careful consideration.

The PRESIDENT: These details are for the Select Committee to decide.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: And even the Select Committee must think over this important problem carefully. They cannot all at once say that they would accept an idea like this. I, therefore, want to take a little time and I hope my friend will not misunderstand me but will realise the gravity of the situation and will agree to the motion of my friend, Mr. Mesbahuddin Ahmed.

Mr. NARESH NATH MOOKERJEE: There are constitutional difficulties in accepting the motion of Mr. Mesbahuddin Ahmed. The Select Committee will labour in vain. By the time it will submit its report, the mover of this Bill will cease to be a member of this House. Either he should withdraw the Bill or the Hon'ble Minister should take a shorter time.

Mr. PRESIDENT: Order, order: I will put the amendment first.

The question before the House is the amendment of Mr. Mesbahuddin Ahmed: that for the personnel of the Select Committee proposed by the member-in-charge of the Bill, the following be substituted, namely:—

(1) The Hon'ble Nawab Musharruff Hossain, Khan Bahadur, Minister in charge of the Judicial and Legislative Departments,

(2) Khan Bahadur M. Abdul Karim,

(3) Mr. Kader Baksh,

(4) Mr. Hamidul Huq Chowdhury,

(5) Khan Sahib Abdul Hamid Chowdhury,

(6) Khan Bahadur Ataur Rahman,

(7) Mr. E. C. Ormond,

(8) Mr. Kamini Kumar Dutta,

(9) Mr. Shrish Chandra Chakraverti,

(10) Mr. Naresh Nath Mookerjee, and

(11) Rai Surendra Narayan Sinha Bahadur,

and for the figure and word "25th March" appearing in the last paragraph of the original motion, the figure and word "31st March" be substituted.

A division was challenged.

(As the Division bell was ringing.)

Mr. E. C. ORMOND: On a point of information, Sir. Is it necessary that members like myself should be forced to sit on a Committee whose deliberations would be entirely infructuous and waste of time, because, speaking for myself, Sir, I wish to withdraw my name from the personnel of the Select Committee.

Mr. PRESIDENT: Order, order. During the Division, one cannot rise on a point of information.

(The Division bell stopped ringing.)

The question before the House is: that for the personnel of the Select Committee and the date of their report, as proposed by the member in charge of the Bill, the following be substituted, namely:—

(1) The Hon'ble Nawab Musharruff Hossain, Khan Bahadur, Minister in charge of the Judicial and Legislative Departments,

(2) Khan Bahadur M. Abdul Karim,

(3) Mr. Kader Baksh,

(4) Mr. Hamidul Huq Chowdhury,

(5) Khan Sahib Abdul Hamid Chowdhury,

(6) Khan Bahadur Ataur Rahman,

(7) Mr. E. C. Ormond,

(8) Mr. Kamini Kumar Dutta,

(9) Mr. Shrish Chandra Chakraverti,

(10) Mr. Naresh Nath Mookerjee, and

(11) Rai Surendra Narayan Sinha Bahadur,

and for the figure and word "25th March" appearing in the last paragraph of the original motion, the figure and word "31st March" be substituted.

The House then divided with the following result:—

AYES—12.

Ahmad, Khan Bahadur Naziruddin.
Baksh, Mr. Kader.
Chowdhury, Khan Sahib Abdul Hamid.
Chowdhury, Mr. Khorshed Alam.
Haider, Nawabzada Kamruddin.
Hossain, Khan Bahadur Saiyed Muazzamuddin.
Hossain, Mr. Latafat.
Hossain, Mr. Mohamed.
Molla, Khan Sahib Subidali.
Rahman, Khan Bahadur Ataur.
Rahman, Khan Bahadur Mukhlesur.
Rashid, Khan Bahadur Kazi Abdur.

NOES—15.

Bose, Rai Bahadur Manmatha Nath.
Chakraverti, Mr. Shrish Chandra.
Das, Mr. Lalit Chandra.
Datta, Mr. Bankim Chandra.
Dutta, Mr. Kamini Kumar.
Goswami, Mr. Kanai Lal.
Mookerjee, Mr. Naresh Nath.
Ormond, Mr. E. C.
Ray, Mr. Nagendra Narayan.
Roy, Mr. Amulyadhone.
Sanyal, Mr. Sachindra Narayan.
Sarker, Rai Sahib Indu Bhusan.
Singh Roy, Mr. Saileswar.
Sinha, Rai Bahadur Surendra Narayan.
Sinha, Raja Bahadur Bhupendra Narayan of, Nashipur.

Mr. PRESIDENT: Order, order. The House has divided: the "Ayes" being 12 and the "Noes" 15, the amendment is negatived.

The question before the House is the main motion of Rai Surendra Narayan Sinha Bahadur: that the Bill be referred to a Select Committee consisting of:—

(1) The Hon'ble Nawab Musharruff Hossain, Khan Bahadur, Minister in charge of the Judicial and Legislative Departments,

(2) Mr. Ranajit Pal Chowdhury,

(3) Mr. Naresh Nath Mookerjee,

(4) Raja Bhupendra Narayan Sinha Bahadur,

(5) Mr. Nagendra Narayan Roy,
(6) Mr. W. B. G. Laidlaw,
(7) Khan Bahadur Mohammed Ibrahim,
(8) Begum Hamida Momin,
(9) Mr. Humayun Kabir,
(10) Dr. Arabinda Barua, and
(11) the mover,

with instructions to submit their report by the 25th March, 1940, and that the number of members whose presence shall be necessary to form a quorum shall be five.

(The motion was agreed to.)

The Bengal Non-Agricultural Tenancy Bill, 1937.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Before I move it, Sir, may I have your kind permission to make a slight change in the personnel of the Select Committee?

Mr. PRESIDENT: Yes.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I beg to move that the Bengal Non-Agricultural Tenancy Bill, 1937, be referred to a Select Committee consisting of:—

(1) The Hon'ble Sir Bijoy Prasad Singh Roy, Minister in charge of the Revenue Department,
(2) Mr. E. C. Ormond,
(3) Khan Bahadur Ataur Rahman,
(4) Mr. Kader Baksh,
(5) Khan Bahadur Naziruddin Ahmad,
(6) Mr. Lalit Chandra Das,
(7) Mr. Kamini Kumar Dutta,
(8) Mr. Naresh Nath Mookerjee,
(9) Mr. Humayun Kabir,
(10) Raja Bhupendra Narayan Sinha Bahadur, and
(11) the mover,

with instructions to submit their report by the 31st March, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

Sir, in commending my motion to the acceptance of the House, I may state that this Bill seeks to give protection to the non-agricultural tenantry of Bengal residing in the permanently-settled areas. That such protection against ejectment and enhancement of rent is necessary has practically been admitted by the Government since they have constituted a committee to enquire into the question of *Chandina* tenancy in Bengal. But this Bill was introduced some time before the constitution of that committee. Sir, the main object of this Bill is only to protect the tenants against ejectment and also to protect them against undue extortion. These are the only two main provisions with which I think there will be general agreement. Sir, whatever may be the decision of the *Chandina* Committee, I think that the Hon'ble Minister ought to see his way to agree to the principles underlying this Bill. So, I beg to submit that this is a very innocent measure and that it is long overdue. So long the agriculturists of Bengal have been given certain protection, but the non-agriculturist population residing in the permanently-settled areas, who are also tenants under the landlords, have not been given any protection. As the Permanent Settlement Regulation set forth that Government would initiate measures from time to time for the protection of tenants of all classes, I think it is only necessary that the most helpless class of tenants in the permanently-settled areas should get some protection. This has become more necessary in view of the emergent Non-Agricultural Tenancy Bill which has been placed before this House to-day. It has been considered necessary that some emergent measures should be taken to see that the institution of suits and the execution of ejectment suits against non-agriculturist tenants are suspended for a period of two years. That clearly shows the necessity of a Bill of this nature.

As regards the principles, they are only two in number, with which I think nobody can have any quarrel. So, I commend my motion for the Bill being referred to a Select Committee to the acceptance of the House and I hope the Hon'ble Minister will accept it.

Mr. PRESIDENT: Motion moved: that the Bengal Non-Agricultural Tenancy Bill, 1937, be referred to a Select Committee consisting of:—

(1) The Hon'ble Sir Bijoy Prasad Singh Roy, Minister in charge of the Revenue Department,

(2) Mr. E. C. Ormond,

(3) Khan Bahadur Ataur Rahman,

(4) Mr. Kader Baksh,

(5) Khan Bahadur Naziruddin Ahmad,

(6) Mr. Lalit Chandra Das,

(7) Mr. Kamini Kumar Dutta,

(8) Mr. Naresh Nath Mookerjee,

(9) Mr. Humayun Kabir,

(10) Raja Bhupendra Narayan Sinha Bahadur, and

(11) the mover,

with instructions to submit their report by the 31st March, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to move by way of amendment that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st December, 1940.

Sir, the Bill seeks to introduce very far-reaching changes regarding the rights of landlords and tenants in non-agricultural areas and the Bill is by no means so innocent as its mover wants us to believe it to be.

Now, the honourable member in moving his motion said that his main object was to give protection from ejectment to the tenants of non-agricultural lands. The Bill which has recently been passed elsewhere and which has been placed to-day on the table of this House about the non-agricultural tenancy will give that protection to the tenants for the next two years. So, there is absolutely no question of hurry and no emergency whatsoever. Sir, this is a matter which requires very careful consideration. Hitherto, the relationship between the landlord and the tenant in non-agricultural areas has been governed by contract and by the provisions of the Transfer of Property Act. Now, my honourable friend seeks to do away with that contract and also with the provisions of the Transfer of Property Act and to substitute them by certain provisions which he proposes in this Bill. So, these questions require very careful and detailed consideration. Moreover, the Non-Agricultural Tenancy Committee has been sitting and has not yet finished its labours. So, the honourable member's proposal is really putting the cart before the horse. Certainly, Government cannot make up their mind or accept principles which are undoubtedly of far-reaching consequence without careful examination and before they receive the report of the Non-Agricultural Tenancy Committee. In this view of the matter, Sir, I hope the House will agree to my amendment.

Mr. PRESIDENT: Amendment moved: that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st December, 1940.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, in view of the remarks made by the Hon'ble Minister, I beg leave of the House to withdraw my motion so that the other motion might be accepted.

Mr. PRESIDENT: How can that be? Being the mover of the Bill, if you withdraw your motion which is the main one, the other motion of the Hon'ble Minister, which is only by way of an amendment, cannot be put to the House. You may say that you accept the amendment of the Hon'ble Sir Bijoy Prasad Singh Roy.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I accept the amendment of the Hon'ble Minister.

Mr. PRESIDENT: The question before the House is the amendment of the Hon'ble Sir Bijoy Prasad Singh Roy: that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st December, 1940.

(The motion was agreed to.)

The Bengal Municipal (Amendment) Bill, 1939.

Mr. PRESIDENT: Rai Surendra Narayan Sinha Bahadur.

Rai SURENDRA NARAYAN SINHA Bahadur: Mr. President, Sir, I beg to move that the Bengal Municipal (Amendment) Bill, 1939, be referred to a Select Committee consisting of the following:—

(1) The Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca, Minister in charge of the Public Health and Local Self-Government Department,
(2) Mr. Bankim Chandra Datta,
(3) Mr. Ranajit Pal Chowdhury,
(4) Rai Manmatha Nath Bose Bahadur,
(5) Mr. E. C. Ormond,
(6) Mr. Nur Ahmed,
(7) Khan Sahib Abdul Hamid Choudhury,
(8) Maulana Muhammad Akram Khan,
(9) Mr. Krishna Chandra Roy Chowdhury,
(10) Begum Hamida Momin, and
(11) the mover,

with instruction to submit their report by the 25th March, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

Sir, it is admitted by the Government even that the Bengal Municipal Act requires amendment. As a matter of fact, the Government has sent a circular to all municipalities to give suggestions to the Government in this connection. It is not known when the Amending Bill will come up. In the meantime, there are a few amendments which are of considerable urgency. I have brought them up in the form of a Bill. If this is passed, it will facilitate the amendment of other parts of the Act.

With these words, Sir, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Motion moved: that the Bengal Municipal (Amendment) Bill, 1939, be referred to a Select Committee consisting of—

(1) The Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca, Minister in charge of the Public Health and Local Self-Government Department,

(2) Mr. Bankim Chandra Datta,

(3) Mr. Ranajit Pal Chowdhury,

(4) Rai Manmatha Nath Bose Bahadur,

(5) Mr. E. C. Ormond,

(6) Mr. Nur Ahmed,

(7) Khan Sahib Abdul Hamid Chowdhury,

(8) Maulana Muhammad Akrum Khan,

(9) Mr. Krishna Chandra Roy Chowdhury,

(10) Begum Hamida Momin, and

(11) the mover,

with instructions to submit their report by the 25th March 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: I beg to move that the Bengal Municipal (Amendment) Bill, 1939, be circulated for the purpose of eliciting opinion thereon by the 31st December, 1940.

Mr. PRESIDENT: May I suggest one thing? It is proper that Government should oppose the motion for reference to Select Committee rather than move a circulation motion, because, as I have explained, this Bill will automatically drop off after the 4th April, when the member-in-charge of the Bill ceases to be a member of the Council. What is the good of wasting public money on circulation?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: What I wish to explain is this: I am going to give an assurance to this House that Government will introduce a Bill for the amendment of the Bengal Municipal Act in the July session; but in case Government are not able to fulfil this promise, this Bill should hold the field. I do not want this Bill to be killed. Since you say, Sir, that this Bill will be killed after the 4th April next, I have no other alternative but to oppose the motion of Rai Bahadur.

Mr. MESBAHUDDIN AHMED: It would be better if the Bill is withdrawn.

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: I quite appreciate the anxiety of Rai Bahadur Surendra Narayan Sinha for amending certain sections of the Bengal Municipal Act. It is very necessary. As I have already stated in this House, Government have appointed a Special Officer and we are nearly ready with Bills for amending the Bengal Local Self-Government Act, the Bengal Village Self-Government Act and the Bengal Municipal Act. I am giving this assurance to the House that I will bring in a comprehensive Bill in the July session. I do not think that we should go in for piecemeal legislation. It is better to bring in a comprehensive Bill dealing with the whole matter. In these circumstances, I would request the mover to withdraw his motion. If he does not, I have to oppose his motion.

Khan Bahadur NAZIRUDDIN AHMAD: May I ask a question? Will the Bill proposed to be introduced by the Hon'ble Minister be on the same lines as this Bill. If so, there is no need for circulating it for eliciting public opinion. If it is not so, it would be to the advantage of the members of this House to have this Bill circulated for eliciting opinion so that that opinion might be used by the members of the legislature for future guidance.

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: The Hon'ble President has informed us that the member will not continue to be a member of this House after the 4th April next, and that as such this Bill even if it be sent for eliciting public opinion will be killed. Under these conditions, I was going to oppose the motion but I ask for its circulation because the opinions that will be received will help us while drafting our Bill.

Rai SURENDRA NARAYAN SINHA Bahadur: I beg to submit that I am quite willing to accept the motion for circulation of this Bill, because in that case the municipalities and the other public bodies will

be informed of the amendments and they will be able to send suggestions. That might help the Government when they bring their amending Bill.

Mr. PRESIDENT: Circulation motion will be of no avail when you will cease to be a member and no further action will be taken on your circulation motion.

Rai SURENDRA NARAYAN SINHA Bahadur: In these circumstances, I beg leave to withdraw my motion.

(The motion was then, by leave of the House, withdrawn.)

The Bengal Land Revenue Sales Amending Bill, 1938.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: I beg to move for leave to introduce the Bengal Land Revenue Sales Amending Bill, 1938.

Mr. PRESIDENT: The question before the House is: that Khan Bahadur Saiyed Muazzamuddin Hosain begs leave to introduce the Bengal Land Revenue Sales Amending Bill, 1938.

(The motion was agreed to.)

The Secretary then read the short title of the Bill.

The Bengal Water-hyacinth Amending Bill, 1938.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: I beg to move for leave to introduce the Bengal Water-hyacinth Amending Bill, 1938.

Mr. PRESIDENT: The question before the House is: that Khan Bahadur Saiyed Muazzamuddin Hosain begs leave to introduce the Bengal Water-hyacinth Amending Bill, 1938.

(The motion was agreed to.)

The Secretary then read the short title of the Bill.

The Bengal Agricultural Debtors (Amendment) Bill, 1938.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: I beg to move for leave to introduce the Bengal Agricultural Debtors (Amendment) Bill, 1938.

Mr. PRESIDENT: The question before the House is: that Khan Bahadur Saiyed Muazzamuddin Hosain begs leave to introduce the Bengal Agricultural Debtors (Amendment) Bill, 1938.

(The motion was agreed to.)

The Secretary then read the short title of the Bill.

The Bengal Emergency Rent Remission Bill, 1938.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: I beg to move for leave to introduce the Bengal Emergency Rent Remission Bill, 1938.

Mr. PRESIDENT: The question before the House is: that Khan Bahadur Saiyed Muazzamuddin Hosain begs leave to introduce the Bengal Emergency Rent Remission Bill.

(The motion was agreed to.)

The Secretary then read the short title of the Bill.

The Bengal Land Revenue Sales Amending Bill, 1938.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: I beg to move that the Bill be taken into consideration.

A very simple provision has been made in the Bill. It is only to give protection——

Mr. PRESIDENT: Order, order. This is a motion for the Bill being taken into consideration. There is a convention observed in almost all parliamentary institutions that two stages—one of introduction and the other of taking into consideration—are not considered on the same day. Of course, it is a convention and you may insist on your right under the Rules of the Council.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: The Hon'ble Minister has given notice of a motion for reference of the Bill to a Select Committee. If I accept that motion it will be of some help to us; otherwise we will not get any other day during this session.

Mr. PRESIDENT: The further difficulty is this that under rule 52 (2) of the Bengal Legislative Council Procedure Rules, the honourable member must give 21 days' notice for the Bill to be taken into consideration. As sufficient notice has not been given, it cannot be moved to-day.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: I have been giving notices for the consideration of this Bill for the last two years. Every time because the intervening period was too short it was not possible for me to give the required 21 days' notice.

Mr. PRESIDENT: It is a good convention to follow that two motions should not be moved on the same day. In this case, the honourable members have not got a copy of this Bill to go into the provisions of the Bill. But if there is no objection from any body, I shall reconsider the matter. What is your opinion, Mr. Dutta?

Mr. KAMINI KUMAR DUTTA: We have not got a copy of this Bill and really it will not be quite fair to take it up to-day.

Mr. PRESIDENT: I hold that this motion cannot be moved to-day.

(After a pause.) Order, order. The Council stands adjourned till 2-15 p.m. on Monday, the 18th instant.

Adjournment.

The Council then adjourned till 2-15 p.m. on Monday, the 18th of March, 1940.

Members Absent.

The following members were absent from the meeting held on the 15th March, 1940:—

(1) Mr. Nur Ahmed.
(2) Rai Bahadur Keshab Chandra Banerjee.
(3) Mr. Moazzemali Chowdhury.
(4) Mr. Hamidul Huq Chowdhury.
(5) Mr. Humayun Reza Chowdhury.
(6) Khan Bahadur S. Fazal Ellahi.
(7) Khan Bahadur Alhadj Khwaja Muhammad Esmail.
(8) Khan Bahadur Syed Muhammad Ghaziul Huq.
(9) Khan Bahadur Maulvi Muhammad Ibrahim.
(10) Mr. Humayun Kabir.
(11) Maulana Muhammad Akram Khan.
(12) Mr. W. B. G. Laidlaw.
(13) Mr. H. G. G. MacKay.
(14) Dr. Radha Kumud Mookerji.
(15) Rai Bahadur Satis Chandra Mukherji.
(16) Mr. H. P. Poddar.
(17) Mr. J. B. Ross.
(18) Rai Saheb Jatindra Mohan Sen.

B. G. Press—1940-41—216A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Buildings, Calcutta, on Monday, the 18th March, 1940, at 2-15 p.m. being the twelfth day of the First Session, pursuant to section 62(2)(a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

Obituary Reference.

Mr. PRESIDENT: Before the Order Paper of the day is taken up, the Chair desires to place on record the sense of loss which the country has sustained by the tragic death of Professor Jitendra Lal Banerji, who was a member of the Bengal Legislative Council under the Montagu-Chelmsford Reforms.

Mr. Banerji had a uniformly brilliant career as a student and later on became one of the most successful and popular professors of recent times. His eminence as an orator was recognised by all. He was a Congress candidate for election to the Bengal Legislative Council from the Burdwan Division North-East Rural Constituency. When he was going to attend the polling booth on the 16th instant, the tragic accident took place.

I had occasion to come in close contact with him in various spheres of his activities and I can personally testify to the many qualities of his head and heart. In him Bengal has lost an eminent educationist and a patriot. May his soul rest in peace!

I would request the honourable members to rise in their places as a mark of respect to the memory of the deceased.

(All members rose in their places.)

Order, order. It will now be the duty of the Chair to convey to the members of the bereaved family the sincere sympathy and heart-felt condolences of the Council.

QUESTIONS AND ANSWERS

Accommodation for the Government Girls' Middle English School at Noakhali.

61. Khan Bahadur REZZAQUL HAIDER CHOWDHURY: (a) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether it is a fact that the school building of the Government Girls' Middle English School at Noakhali was washed away?

(*b*) If so, when was it washed away?

(*c*) Has the Government taken any action since then to provide a building for the same school?

(*d*) If so, will the Hon'ble Minister please state the action taken?

(*e*) Is it a fact that a building belonging to another school is being used in the morning for this girls' school to the great inconvenience of young girl students?

(*f*) Will the Hon'ble Minister state what action the Government proposes to take on this matter?

MINISTER in charge of the EDUCATION DEPARTMENT (the Hon'ble Mr. A. K. Fazlul Huq): (*a*) Yes.

(*b*) I have no information as to the exact date.

(*c*), (*d*) and (*f*) Government do not consider the present headquarters of Noakhali to be a safe place for building. They are considering the question of removing elsewhere. The question of providing a building for the girls' school will be considered when the question has been decided.

(*e*) The girls have been put to some inconvenience but there is no help under the existing circumstances.

Mr. LALIT CHANDRA DAS: Arising out of answer (*c*), (*d*) and (*f*), will the Hon'ble Minister be pleased to state when the consideration of the question of removing the headquarters will come to be settled?

The Hon'ble Mr. A. K. FAZLUL HUQ: That is more than I can say. All I can say is that it is being considered and it will be expedited.

Prohibition of the "Bandemataram" song in the Dacca Engineering College Hostel.

62. Mr. SHRISH CHANDRA CHAKRAVERTI: Will the Hon'ble Minister in charge of the Education Department be pleased to state if it is a fact that the students of the Dacca Engineering College Hostel were prohibited from using the gramophone record of the "Bandemataram" song during the *Saraswati Puja* festival and that the Superintendent of the hostel of the said college refused permission therefor in spite of the earnest prayer of the Hindu students of the college?

The Hon'ble Mr. A. K. FAZLUL HUQ: Steps have been taken to procure the information which is not yet ready.

Sir, I beg leave to read the information which I have received since then.

Mr. PRESIDENT: All right.

The Hon'ble Mr. A. K. FAZLUL HUQ: The students were given full facilities for performing the *Puja* as in previous years. On the third day following the festival, certain boarders started playing a "Bandemataram" record and this was objected to by the majority of the boarders. As there was considerable excitement among the boarders and as there was an apprehension of breach of the peace, the boarders were not allowed to repeat the record.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state how many students of the Dacca Engineering College Hostel were Muhammadans and how many were Hindus?

The Hon'ble Mr. A. K. FAZLUL HUQ: As far as I am aware, majority of the students were Hindus.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state if the heads were counted when it is stated that the "Bandemataram" song was objected to by the majority of boarders?

The Hon'ble Mr. A. K. FAZLUL HUQ: I do not know whether head or anything was counted. The head of the institution had certainly the common sense to understand what was majority and what was minority.

Mr. LALIT CHANDRA DAS: Does the Hon'ble Minister want to convey the idea that the majority being Hindus the song was objected to?

The Hon'ble Mr. A. K. FAZLUL HUQ: That I cannot say.

Mr. LALIT CHANDRA DAS: That was exactly your answer.

The Hon'ble Mr. A. K. FAZLUL HUQ: The position is this: If the Hindus are in a majority and the Muslims and Hindus are nearly equal in number there, then the Muhammadan students plus a few Hindu students will form a majority.

Mr. LALIT CHANDRA DAS: Did the head of the institution object to this?

The Hon'ble Mr. A. K. FAZLUL HUQ: It is a fact that it was objected to and the head of the institution thought that this thing should not be allowed to go on. That was sufficient.

Mr. LALIT CHANDRA DAS: Then there was no question of majority?

The Hon'ble Mr. A. K. FAZLUL HUQ: I have said that the majority was objecting and therefore he did not allow the thing to go on.

Saraswati Puja in the Pabna College Hostel.

63. Mr. SHRISH CHANDRA CHAKRAVERTI: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state if it is a fact that on the day of *Saraswati Puja* celebration in the Pabna College Hostel, local Hindu public was prohibited from entering the hostel compound and participating in the *Puja* there?

(*b*) Is it a fact that the District Magistrate surrounded the main building of the hostel with armed guards and took possession of the image of the goddess and refused permission for the usual immersion ceremony of the goddess being performed and also threatened the students with arrest under the Defence of India Act should they utter the word "Bandemataram"?

The Hon'ble Mr. A. K. FAZLUL HUQ: Steps have been taken to procure the information which is not yet ready.

Here again, Sir, I beg leave to place before the House the information which I have since then received.

Mr. PRESIDENT: Yes.

The Hon'ble Mr. A. K. FAZLUL HUQ: (*a*) None was prohibited from entering the hostel or the college compound or from participating in the *Pujas* there. Large numbers of people witnessed and participated in the celebrations both in the college buildings and in the hostel. As a matter of fact, an immense crowd of outsiders needlessly flocked into the college compound and added to the communal tension by shouting provocative slogans.

(*b*) No, but a police force was kept inside and outside the college compound to prevent a breach of the peace. Permission for the

immersion ceremony of the goddess was not refused. What was refused was permission to proceed through the town with the idol worshipped in the college buildings and the hostel. Such procession was refused because, having regard to the tension of feeling between the two communities existing at the time, it was probable that, if the idols were taken out in procession, there would break out a general communal conflagration. It had been ascertained by the District Magistrate from the secretaries of the *Puja* Committee that idols were not to be immersed after the procession but were to be brought back to the place of starting and kept for a year there. Late at night when the performance of the *Pujas* had been completed and Hindu students were shouting "Bandemataram" unnecessarily loudly and repeatedly to provoke the Muslim students, and the Muslim students were retaliating by shouting "Alla-ho-Akbar" in reply and a clash seemed to be imminent, the District Magistrate forbade the shouting of "Bandemataram."

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether there was ever any such occurrence before in the Pabna College Hostel at the time of the celebration of Saraswati Puja?

The Hon'ble Mr. A. K. FAZLUL HUQ: I do not know. But because things did not occur in the past, there is no guarantee that they will not occur in future.

Mr. RANAJIT PAL CHOWDHURY: Is it a fact that the District Magistrate forbade the shouting of "Bandemataram" only and did not forbid the shouting of "Alla-ho-Akbar"?

The Hon'ble Mr. A. K. FAZLUL HUQ: I think so; yes.

Mr. LALIT CHANDRA DAS: Who was the District Magistrate?

The Hon'ble Mr. A. K. FAZLUL HUQ: A gentleman named Mr. A. Z. Khan.

Mr. LALIT CHANDRA DAS: Did the District Magistrate take into consideration the feelings of the Hindu students who were determined to have the immersion of the Goddess performed?

The Hon'ble Mr. A. K. FAZLUL HUQ: My friend does not know, but I know the facts. What exactly had occurred is that at the time of the Saraswati Puja the Hindu students wanted to have the *Puja* performed in the College building which they had not done before The Muslim students objected, because they were not allowed to

perform their *Id* festival some days before. The Muslim students thereupon appeared before the governing body. The governing body decided that since arrangements had been made, the *Puja* might be allowed this year, but for future no performance of any kind would be permitted within the College. The Muslim students thereupon sent me telegrams and I sent the Director of Public Instruction to make enquiries there. He came and reported that the matter had gone too far and it would not be advisable to prevent the *Puja* but that a reference should be made to the governing body to see that no breach of peace would take place. The Director of Public Instruction thereupon pointed out to the governing body a circular which was issued some time in the year 1926 to the effect that in a non-Government institution, a matter of this kind rests entirely with the governing body but as a matter of precaution neither the *Puja* nor a Muslim festival ought to be allowed to be held within a college or a hostel if the other community objects. The governing body thereupon met and they decided to stop the *Puja* by a majority of votes. The Hindu students thereupon came up to me and I met them and had a full discussion with them. I pointed out to them that they would be allowed permission provided they could persuade their Muslim bretheren not to raise any objection. When they went there the Hindu students were determined to have the *Puja*, but the Muslim students were obdurate. I sent a telegram to the District Magistrate pointing out that obstinacy on both sides might lead to disastrous consequences and requesting him to convey to the Muslim students my appeal to allow the Hindu students to perform the *Puja* this year as a special case. I do not know how this telegram did not reach the Muslim students in time, but the Hindu boys in spite of the warning of the governing body went on with the *Puja*. Thereupon the District Magistrate appeared on the scene and tried to compose the differences as a result of which nothing untoward happened. I am sure the honourable member has been misinformed when he thinks that the District Magistrate needlessly interfered. As a matter of fact, he did his best to allow the Hindu students to go on with their *Puja* and to prevent the Muslim students from interfering with it.

Loss due to floods in certain parts of Chittagong.

64. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN (on behalf of Mr. Nur Ahmed): (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state if it is a fact that the villagers of Hathazari, Rauzan and Fatiksari thanas of the district of Chittagong suffer heavy loss every year owing to annual inundation and other causes, such as the silting up of the Dhurang *khal*, the zig-zag course of the river Halda and insufficient number of bridges on the Hathazari-Rauzan Road?

(*b*) Is it a fact that nearly five lakhs of villagers are affected in those areas by such recurring inundation?

(*c*) Has the District Engineer of Chittagong prepared an estimate of Rs. 57,000 only for the re-excavation of the Dhurang *khal* and has the Executive Engineer of the Dacca Circle also prepared an estimate of Rs. 20,000 for straightening the zig-zag course of the Halda river? If so, has the Government sanctioned these estimates? If not, why not?

(*d*) Is it a fact that the proposal of construction of further bridges on the Hathazari-Rauzan Road is still under the consideration of the Government? If so, has the Government arrived at a final decision in these matters? If not, when is the Government expected to finally decide these matters?

(*e*) Is it a fact that the Chief Minister and other Ministers have given assurance to the people of these thanas about giving effect to the abovementioned projects? If so, when does the Government intend to carry out these projects?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Srischandra Nandy, of Cossimbazar): (*a*) and (*b*) The area which, at the time of the last census had a population of about 355,000, suffers from inadequate facilities for the rapid disposal of flood water.

(*c*) I am informed that in connection with an anti-malaria scheme the District Board has estimated that the cost of excavating the Dhurang *khal* will be Rs. 58,000. I have no information about the other estimate.

(*d*) The question of financing the construction of a bridge over the Halda river at Sartaghat will be taken up when plans and estimates for the bridge which have been called for from the Chittagong District Board have been received.

(*e*) Some of my colleagues have recommended the careful examination of certain proposals made by Dr. Sanaullah, M.L.A., and others. I recently visited the area and am having the possibility of improving it studied by my technical advisers.

Report of the Select Committee on the Bengal Tenancy (Third Amendment) Bill, 1939 (as passed by the Assembly).

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, may I with your permission present the Report of the Select Committee on the Bengal Tenancy (Third Amendment) Bill, 1939. In this connection, Sir, may I with your permission also give notice that at the sitting of the Bengal Legislative Council to be held on the 27th March, 1940, I

shall move that the Bengal Tenancy (Third Amendment) Bill, 1939, as reported on by the Select Committee be taken into consideration and passed, as settled in the Council? May I, Sir, further request you to accept some amendments at short notice?

Mr. PRESIDENT: Those honourable members who desire to give notice of amendments will please do so by 12 noon of the 21st instant. This will give them three clear days within which to send in their amendments.

Discussion of the Supplementary Estimates of Expenditure, 1939-40.

Mr. PRESIDENT: The House will now discuss the Supplementary Estimates of Expenditure, 1939-40. Khan Sahib Abdul Hamid Chowdhury.

Khan Sahib ABDUL HAMID CHOWDHURY: Mr. President, Sir, in rising to discuss the Supplementary Budget,—more properly speaking the second Supplementary Estimate for Expenditure for the current year,—I propose to commence with repetition of some grievances which have been ventilated on several occasions on the floor of this House but without any effect whatsoever.

Sir, on reference to the printed copy of the Budget, I find that an explanatory memorandum has been appended to each item of demand for grant, but these explanatory memoranda strictly speaking, do not explain anything. These notes have been given in such concise form and couched in such guarded language that nothing whatsoever can be made out of them and they remain as much inexplicable as the Budget itself. Sir, really speaking, these notes do not throw any light, at any rate sufficient light, to help one to appreciate and understand the Budget properly. On similar complaints being made on the floor of this House on a former occasion, the then Finance Minister held out a definite promise of improvement in this matter in future; but, Sir, though about a year has rolled on, we are exactly where we were. Is it an indication, Sir, that, with a change in the personnel of the Ministry or a redistrubution of their portfolios, assurances and promises given on behalf of the Government should fall to the ground and lapse? I pause for a reply. In the absence of detailed notes, Sir, and in the absence of any speech from the Hon'ble Finance Minister explaining the underlying principle of the demands for grants, it is very difficult to understand the real situation and circumstances justifying these demands.

Sir, the main principle of a Budget is to place all facts and circumstances relating to demands for grants before the Legislature, so that

members of the Legislature can understand the matter aright. But, Sir, from the Budget under discussion, we cannot understand if the demands contain the amounts of expenditure already incurred, or whether the Budget which has been presented to us in the shape of a supplementary estimate contains expenditure which it is proposed to incur——

Mr. PRESIDENT: Order, order. This is a Supplementary Estimate.

Khan Sahib ABDUL HAMID CHOWDHURY: Yes, Sir, I am conscious of that.

Mr. PRESIDENT: A Supplementary Estimate means that it is an estimate of all supplementary expenditure.

Khan Sahib ABDUL HAMID CHOWDHURY: My point, Sir, is whether the demand has been presented before the expenditure has already been incurred. I cannot understand from this Budget whether it is meant to legalise expenditure which had already been incurred by Government or whether it is desired that we should accord our sanction to the expenditure proposed by Government.

Mr. PRESIDENT: That is an excess grant you are referring to. But this is a supplementary grant which is different from excess grants. At the close of the year, when the Departments find that they cannot confine themselves to the amounts already voted, they submit a supplementary demand in consideration of the fact that more money would be necessary. This supplementary demand has nothing to do with excess grants.

Khan Sahib ABDUL HAMID CHOWDHURY: I fully understand it, Sir, but I fail to understand whether these demands are being made after incurring the expenditure or before incurring the expenditure. However, I think also, Sir, that in this connection it will not be out of place to mention that a Standing Finance Committee was constituted. But, Sir, it has never been allowed to function. If a committee is not permitted to meet and function. I cannot understand, Sir, what is the use of having this mockery of a committee.

Then, Sir, turning to the Budget itself, on page 2 of the printed copy I find that an amount of Rs. 9,000 has been provided under

Grant No. 2, "Land Revenue." Of course, this is a very formal matter and as far as we the Legislators are concerned, it matters very little whether a certain charge is to be debited to this head or to that head of expenditure. But, Sir, what I feel is that the Land Revenue Commission is the most important commission and that the Secretary of that Commission has got to discharge a very onerous and responsible duty. He is expected to keep himself in close touch, from day to day, with the proceedings of the Commission and take regular notes and to prepare the draft report. So, I think, Sir, that one holding such a responsible position should not have either sought leave nor been allowed to take leave before the Commission finished its labours. Even a temporary absence of the Secretary is likely to cause dislocation in the business and prolongation of the investigation of the Committee, which means extra expenditure.

Then, Sir, I turn to page 9, where I come across an allotment of Rs. 28,000 under Grant No. 27 for "Industries—Cinchona." Here, Sir, I at once accord my approval to this allotment. I welcome this move which, I may say, is a right move in the right direction. Sir, it is known to all that malaria takes a very heavy toll of human lives every year and that cinchona is the only, or at least the cheapest, antidote for malaria. Mungpo is the only place in this province where cinchona plantation is being experimented upon on a modest scale. Practically, for the major portion of the supply of cinchona we have to rely on foreign countries. Sir, I shall not be at all surprised if due to the present war conditions foreign countries stopped sending in supplies, which would mean practically our ruination. So, it is a happy sign that the Government have at long last realised the need for undertaking in real earnest measures for the development of this industry in this province. As regards this item, Sir, I congratulate Government on the steps they have taken.

Then I turn to pages 13 and 14. Though there are two demands for two different grants, there is at least one item of expenditure which is common to both the grants, namely, the expenditure in connection with jute registration. Under Grant No. 32, an amount of Rs. 44,000 has been provided for stationery and printing. In the explanatory memorandum we find that this amount is meant for Live-stock census forms, forms under the Bengal Finance Act, 1939, and forms in connection with the record of jute lands. Live-stock census forms are necessary as Government take the census at regular intervals but I do not understand how the returns which are prepared in those forms at such cost are actually utilised by the Government after their preparation. It seems to me that this expenditure is not justified by the result. It is not understood what proportion of this Rs. 44,000 was spent in connection with the forms for jute lands. Over and above that expenditure, I find from the explanatory note that more

than Rs. 7 lakhs has been provided in the original budget for expenditure in connection with jute registration. Sir, it is now a well-known fact that this enormous expenditure has not served any useful purpose. This amount was required for survey and record of jute lands but the record which has been prepared has been condemned by all sections of people both inside and outside the Legislature as hopelessly defective. Even the Government have been compelled to admit in the other place that the records were so defective that they could not undertake jute restriction on the basis of those records, though the primary object of this grant was to undertake the measure of restriction. Waste of a very heavy amount to the tune of Rs. 7 lakhs or more is not a trifling matter and it should not and cannot be passed over lightly. I submit that this calls for a sifting enquiry and Government must find out who are responsible for this waste and take drastic action against the persons who are responsible for these defects.

I next come to Grant No. 36 at page 15 for extraordinary charges in India. The amount has been divided under three heads, viz., Press Censor, Expenditure on Air-raid precautions and miscellaneous. I have very little to say about the allotment of Rs. 12,000 for the Press Censor but when I find that about a lakh of rupees has been shown on account of precautionary measure against air-raid, I feel tempted to ask the Government to state clearly the steps that have been taken as a safeguard against air-raid. Under the head "Miscellaneous" about Rs. 5 lakhs has been allotted for three different items, viz., Price Controller, extra Police force (including extra staff for seaplane base at Bally), and extra staff for the Defence Branch of the Home Department and for the office of the Commissioner of Police, Calcutta. I do not object to the provision under the head "Price Controller", but when I find that no figure is shown for the pay of officer, pay of establishment, allowances, etc., and contingencies except only a lump grant to the tune of Rs. 4½ lakhs, I feel that the Government have prepared the estimates without knowing their needs and requirements. It seems that Government are not clear in their own minds as to what the requirements are and that is why they have issued this blank cheque. From this lump grant nothing can be understood why it is needed and how it is proposed to be spent.

With regard to the extra staff for the Home Department, I do not know what extra staff has been appointed and what duties have been allotted to them. In matters like these, it is expected that Government should take the members of the Legislatures into their confidence and state clearly what actually they mean. I am sorry that from the printed copy of the budget nothing can be understood clearly in respect of this heavy expenditure of Rs. 5 lakhs. I heaved a sigh of relief when I found in the last line of the explanatory note that these charges are expected to be recovered next year from the Government of India.

So far so good but I doubt very much if it would be an easy affair to recover this amount from the Central Government unless the demand can be fully justified. I have also some doubt about the shortness of time within which this amount is expected to be recovered. I think much time and a lot of correspondence will be needed for the recovery of this amount.

The Hon'ble Mr. H. S. SUHRAWARDY: I am grateful to the members of this House for considering the supplementary budget satisfactory enough not to merit adverse criticism. Khan Sahib Abdul Hamid Chowdhury has pointed out that last year my predecessor in office gave an assurance to this House that the explanatory memoranda would be fuller. I hope they are fuller. I do not find any difficulty in understanding them and I am sure that Khan Saheb Abdul Hamid Chowdhury himself has not found any difficulty in understanding the memoranda and the reasons for the supplementary budget. Matters which have been raised by him could not possibly have been inserted in the memoranda as we were not aware of the nature of the criticisms which the hon'ble member wanted to level. He sought to make a substantive point, not so much arising out of the budget, of the fact that the Secretary of the Land Revenue Commission being an important person and the Land Revenue Commission itself being extremely important, he should not have gone on leave or something to that effect. He went on leave when the Commission itself was in recess and even at that time he was in touch with the Chairman of the Commission and some of the members. I am sure that the Commission itself has got no grievance in the matter and does not consider that there has been any dereliction of duty on his part.

The question of the census forms and of the forms published for jute regulation is another matter altogether. I do not think that if the House approves of the fact that there should be live-stock census, it is necessary to tell the House in detail as to the steps that are taken after the return for further examination. The census forms are scrutinised and examined and the real purpose is to see what is the condition of the present live-stock, whether it is deteriorating, whether it can be improved and various other matters of that type. I do not think that the hon'ble member should have been so hard regarding the record of jute restriction and I hardly think that what has taken place and which is well-known to the hon'ble members here as it is a matter of recent history, calls for any great scrutiny or enquiry. The question had to be decided whether we should go in for jute regulation or not. We would in all probability have been able to come to an early decision had it not been for the fact that the war upset our calculations and it was very difficult to forecast the probable requirements of His Majesty's Government in regard to jute and jute manufactures.

When we got some sort of an indication that the orders which had already been placed appeared to be sufficient for the time being—and we could not foresee a very great drain on the jute stock—Government thought it incumbent on them for the sake of the jute-growers—to go in for this scheme. This, for the time being, certainly steadied the price of jute and enabled those who were holding jute in their hands to sell it at a higher rate than they could otherwise have obtained. Sir, I would ask the House and the honourable members to consider that any money spent by Government in an attempt to regulate jute is not money wasted. If we are able by our process of regulation to increase the price of a maund of jute even by Rs. 2, it may mean as much as Rs. 10 crores additional income to our jute-cultivators. I think, Sir, that the sums of money spent in attempts to regulate jute is money well spent. On this occasion owing to shortness of time the records could not be correctly prepared so as to be absolutely trustworthy. But, in my opinion, Sir, it would be incorrect to say that the money spent has been wholly wasted. We have had very good records. It was only in a small number of cases, nevertheless substantially small, that it was found that the records were not in order and could not be relied upon. Nevertheless, we have gained experience in this line as to how to deal with the material at our disposal so that we are sure we will have a better record in the future. It is well known to the honourable members that this year we have abandoned any scheme of regulation. But we do not propose to give up enumeration, and the record which we shall get this year on the basis of free sowings will be extremely valuable in any scheme of jute restriction which we may take up. It is regrettable that this money which we spent cannot be said to have been fully justified in the sense that the records prepared have, to some extent, got to be scrapped. But I do not think, Sir, that the experience which we have gained will be scrapped; on the other hand, it will be most valuable for the future. Sir, I trust that the honourable members will realise the difficulties with which this Government are faced. The steps which we have taken from time to time have been in the best interests of the cultivators and we hope that they will secure better prices for their jute.

Sir, in regard to the war charges to which my friend has referred, they were necessary. We shall get back the war charges and my friend need not be pessimistic at all that we may not get them in time. The Government of India has sufficient money. These war charges will have to continue for as long as the war lasts, and there need be no doubt that we will have any difficulty in getting back the amount that we have spent and shall spend on war contingencies under the advice, control and supervision of the Government of India.

Mr. LALIT CHANDRA DAS: Can you enlighten us on what the other provinces have spent?

The Hon'ble Mr. H. S. SUHRAWARDY: I do not know, Sir, what the other provinces have spent, but I am certain that what we have spent is not misspent. We are really acting as agents for the Government of India and we shall get back whatever money might have been spent by us.

Mr. PRESIDENT: Order, order. The Council stands adjourned till 2-15 p.m. on Tuesday next.

Adjournment.

The Council then adjourned till 2-15 p.m. on Tuesday, the 19th March, 1940.

Members Absent.

The following members were absent from the meeting held on the 18th March, 1940:—

(1) Mr. Nur Ahmed.

(2) Rai Bahadur Keshab Chandra Banerjee.

(3) Mr. Hamidul Huq Chowdhury.

(4) Khan Bahadur S. Fazal Ellahi.

(5) Khan Bahadur Alhaj Khwaja Muhammad Esmail.

(6) Nawabzada Kamruddin Haider.

(7) Mr. Mohamed Hossain.

(8) Mr. H. C. A. Hunter.

(9) Khan Bahadur Syed Muhammad Ghaziul Huq.

(10) Alhaj Khan Bahadur Shaikh Muhammad Jan.

(11) Mr. Humayun Kabir.

(12) Maulana Muhammad Akram Khan.

(13) Mr. W. B. G. Laidlaw.

(14) Mr. H. G. G. Mackay.

(15) Dr. Radha Kumud Mookerji.

(16) Rai Bahadur Satis Chandra Mukherjee.

(17) Mr. H. P. Poddar.

(18) Mr. J. B. Ross.

(19) Rai Sahib Jatindra Mohan Sen.

(20) Mr. Humayun Reza Chowdhury.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Buildings, Calcutta, on Tuesday, the 19th March, 1940, at 2-15 p.m. being the thirteenth day of the First Session, pursuant to section 62 (2) (a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Miss Kalpana Datta.

65. Mr. LALIT CHANDRA DAS: (a) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether it is a fact that one of the grounds on which Miss Kalpana Datta, a prisoner in the Chittagong Armoury Raid Case, was set at liberty was that she should be allowed to prosecute her studies, if she so desired?

(b) Is it a fact that the said Miss Kalpana Datta wanted to be admitted into the Chittagong College but that she was refused admission?

(c) Does the Government propose to take steps to enable her to get admitted into the Chittagong College for prosecuting further studies?

(d) Did Miss Kalpana Datta petition the Government for a compassionate allowance of Rs. 40 per mensem for prosecuting further studies in view of the fact that her father is out of employment and she is now in penury?

(e) Does the Government propose to grant her a reasonable allowance to help her to become a useful citizen? If not, why not?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Minister in charge of the Education Department): (a) She was released unconditionally.

(b) Yes.

(c) The power of granting admission rests with the Principal of the College. Government do not see any reason to interfere with his discretion.

(d) No application for a compassionate allowance has been received from Miss K. Datta.

(e) No, there is no reason for the grant of an allowance.

Education of Moslem students.

66. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN (on behalf of Mr. Nur Ahmed): (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state what steps he has taken or intends to take to accelerate the pace of education of the Moslem students for the learned professions?

(*b*) Is it a fact that there is no hostel for Moslem girls in any *mufassil* town of Bengal? If so, will the Hon'ble Minister be pleased to state if he intends to make satisfactory arrangements for the accommodation of Moslem girls in big towns, such as Dacca and Chittagong? If not, why not?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Minister in charge of the Education Department): (*a*) The question is vague and unless the hon'ble member names the "learned professions" to which he refers, I am not in a position to reply.

(*b*) Yes; steps are being taken to provide separate hostels for Muslim girls where necessary, and separate messing arrangement is being made everywhere. At present there is separate messing arrangement for the Muslim girls of the Eden High School, Dacca.

Establishment of a Government Girls' High English School at Noakhali.

67. Khan Bahadur REZZAQUL HAIDER CHOWDHURY: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state what is the total annual expenditure under the head "Secondary Education for girls" in Bengal, district by district?

(*b*) Are there Government High English Schools for girls in all the districts in Bengal?

(*c*) Does the Government contemplate to have a Government High English School for girls at Noakhali immediately?

(*d*) Is the Government aware that a non-Government girls High English school, named Uma Girls' High English School, had been started at the Noakhali town in 1934 with the aid of private charities and contributions by the local bodies?

(*e*) Has the Government contributed any amount for the improvement and upkeep of the said school? If so, how much and for what purpose?

(*f*) Is it a fact that the financial condition of the school is not sound and that a representation has been made to the Government for enhancement of the monthly grant?

(*g*) If so, what action has been taken on the same by the Government and what is the decision of the Government, if any?

(*h*) Will the Hon'ble Minister be pleased to state what is the average monthly income and expenditure of the present Government Middle English School at Noakhali?

(*i*) Has a representation been received by the Government from Noakhali for immediate establishment of a full-fledged Government Girls' High English School at Noakhali, amalgamating the Government Girls' Middle English School with the Uma Girls' High English School? If so, what action has so far been taken in that direction?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Minister in charge of the Education Department): (*a*) In the 1939-40 Budget there is a provision of Rs. 5,25,820 for "Direct grants to non-Government Secondary Schools for girls" as detailed below:—

	Rs.
Recurring—	
(*i*) Ordinary grants	4,07,000
(*ii*) Contribution to Teachers' Provident Fund	5,500
Non-recurring—	
(*i*) Building grants	95,720
(*ii*) Furniture grants	2,500
(*iii*) Other grants	500
Under the Dacca Board—	
Recurring	14,600
Total ...	5,25,820

There is also in the same Budget provision of Rs. 3,00,800 for Government Secondary Schools for girls.

A statement is placed on the table showing the distribution of a sum of Rs. 4,01,822 out of the ordinary grant of Rs. 4,07,000 mentioned above, district by district. A further sum of about Rs. 5,000 has been distributed by the Inspectress of Schools, Dacca Circle the details whereof are not yet available.

(*b*) No.

(*c*) The matter is under consideration.

(*d*) and (*f*) Yes.

(*e*) Yes, a recurring grant of Rs. 150 per month for the upkeep of the school.

(*g*) The inspecting officer who visited the school was not entirely satisfied with the work of the institution and did not recommend an increased grant to the school.

(*h*) The average monthly income and expenditure of the present Government Middle English School at Noakhali, are as follows:—

(1) Income—Rs. 137.

(2) Expenditure—Rs. 823.

(*i*) Yes, the matter is under consideration.

Statement referred to in the reply to clause (a) of question No. 67, showing the distribution of ordinary grants to non-Government Girls' Secondary Schools, district by district, during 1939-40.

District.	Rs.
(1) Calcutta	1,22,460
(2) 24-Parganas	37,668
(3) Jessore	9,000
(4) Khulna	7,200
(5) Nadia	12,120
(6) Murshidabad	4,056
(7) Howrah	11,400
(8) Bankura	5,700
(9) Midnapore	11,400
(10) Hooghly	9,900
(11) Burdwan	12,300
(12) Birbhum	4,200
(13) Bakarganj	14,928
(14) Dacca	22,716
(15) Faridpur	5,890
(16) Mymensingh	18,372
(17) Chittagong	8,220
(18) Noakhali	4,980
(19) Tippera	6,900
(20) Dinajpur	12,024
(21) Jalpaiguri	6,900

District				Rs.
(22) Malda	...	...	...	3,600
(23) Pabna	...	...	...	9,348
(24) Rajshahi	...	...	...	7,660
(25) Rangpur	...	...	...	10,500
(26) Bogra	...	...	...	4,440
(27) Darjeeling	...	...	...	17,940
(28) Chittagong Hill Tracts		...	...	Nil
		Total	...	4,01,822

Khan Bahadur REZZAQUL HAIDER CHOWDHURY: With reference to answer (*i*), will the Hon'ble Minister be pleased to state when the matter will be finally decided?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, it is very difficult to say when the matter will be finally decided but, very likely, as soon as possible.

Rai Sahib INDU BHUSAN SARKER: With reference to answer (*c*), may I know, Sir, how long it will take for the Government to complete the scheme because the same sort of answer is being given in almost every case, just as in the case of the Faridpur Girls' School. These are the usual replies which we have been getting from the Government for the last two or three years. Will Government kindly expedite the matter?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, it is very difficult to give any definite date by which Government would come to a decision, but I think the matter would be expedited, as far as practicable.

Re-excavation of the Kerunja Garutala khal.

68. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN (on behalf of Mr. Nur Ahmed): (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state if it is a fact that for want of timely re-excavation of the Kerunja Garutala *khal* in the Patiya thana in the district of Chittagong and the diversion of its mouth, heavy damage has been caused and is being

caused to the paddy crop in the villages of Mansha, Banigram, Harinkhine etc. during the rainy season amounting to more than a lakh of rupees a year?

(*b*) Is it a fact that for want of proper arrangements for the regular flow of rain-water from those villages, the agriculturists numbering more than fifty thousand suffer annual loss of more than a lakh of rupees year after year and that they lose about 70 to 90 per cent. of *aus* crop and also 80 to 98 per cent. of *aman* crop?

(*c*) Is it a fact that the people of these villages have represented their grievances to the Hon'ble Chief Minister when he visited Chittagong in January last and also to the local Circle Officer and other officials?

(*d*) If so, what steps have been taken by Government to get this *khal* re-excavated with a view to giving necessary relief to the poor agriculturists of these villages? If not, why not?

(*e*) Is it a fact that the villages of the Banskhali thana of Chittagong border on the Bay of Bengal stand in constant danger of being flooded by saline water from the Bay?

(*f*) Is it a fact that considerable damage to properties and crops was caused during the floods in August last for want of timely repair of the embankment maintained by private owners?

(*g*) Is it a fact that some portion of the embankment constructed to keep off saline water is maintained by Government and other portions by private persons?

(*h*) Is the Hon'ble Minister aware that the excavation of a canal from the Bharasanga up to the Peshkarhat canal is a long-felt want, in the absence of which the people of Anwara, Banskhali etc. who use these canals are suffering considerably?

(*i*) Is it a fact that the excavation of the proposed canal will result in shortening the distance of journey and will greatly facilitate the boat traffic between Banskhali, Anwara and other parts of the interior and the district headquarters? If so, what steps has the Government taken or is about to take to excavate the proposed canal? If not, why not?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Srischandra Nandy, of Cossimbazar): (*a*) and (*b*) Partial damage is caused in years when there is an accumulation of water owing to continued heavy rainfall. In such years, I am informed, about a quarter of the *aus* and *aman* crops are lost.

(*c*) I presume that the hon'ble member has satisfied himself that such representations were made.

(*d*) The matter is under investigation.

(e) No.

(f) The tides of 16th and 17th August last were unusually high—being about 5 feet higher than the highest known within the last 60 years. These high tides caused breaches in many private embankments of the locality and caused damage to crops and other properties.

(g) Yes.

(h) and (i) Some time ago a proposal for the excavation of a *khal* for the purpose of shortening the existing boat route from Bhorasangu to Peshkarhat and of making a suitable drainage outlet for a congested area of about 5¼ square miles in the locality was considered by the Irrigation Department. Various schemes, namely, (a) a combined scheme for improving navigation and drainage, (b) a purely drainage scheme for the swamped area of about 5¼ square miles, and (c) a separate navigation scheme at an estimated cost of Rs. 1,00,000, Rs. 50,000 and Rs. 2,50,000 respectively were examined and it was found that schemes (a) and (c) were not feasible. In 1935 it was proposed to take up the alternative drainage scheme out of the Government of India's first grant for rural uplift but it was reported that the scheme had no public support.

Outstanding Question of the November-January Session, 1939-40.

The accommodation of the Muslim Female Training School, Calcutta.

172. Mr. NARESH NATH MOOKERJEE on (behalf of Mr. Humayun Kabir): (a) Will the Hon'ble Minister in charge of the Education Department be pleased to state if it is a fact that there are four teachers in the practising school attached to the Hindu Female Training School, Calcutta?

(b) Is it a fact that there are two teachers in the practising school attached to the Muslim Female Training School, Calcutta?

(c) Is it a fact that the Head Mistress of the Muslim Female Training School moved the Government for two more teachers during the last three years?

(d) Is it a fact that there are about 40 girls in the said practising school who come from a very poor and illiterate section of the Muslim community?

(e) Is it a fact that a class had to be closed down in the middle of the session in 1939 for want of teachers and accommodation in the practising school attached to the Muslim Female Training School, Calcutta?

(*f*) Is it a fact that the Muslim Female Training School was removed to a Hindu locality far from the Muslim neighbourhood? If so, why was this done? Is it a fact that many girls reading in the said practising school left the school for that reason? If so, will the Hon'ble Minister kindly take early steps in the matter to remedy the said grievances of the poor Muslim girls?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Minister in charge of the Education Department): (*a*) and (*b*) Yes.

(*c*) No; but the appointment of two additional teachers is under consideration in connection with the scheme for raising the status of the school.

(*d*) The number of girls on the rolls is 53. The majority of the guardians are poor and ill-educated.

(*e*) Yes. Class 1(*b*) was discontinued for want of suitable accommodation and also because most of the students were not really fit for class 1. Some of the students of class 1(*b*) were accommodated in class 1.

(*f*) No. The reasons for the removal of the school to its present site were as follows:—

In October, 1934, the Muslim Female Training School was at 17, Canal Street. These premises being situated in an insanitary part of the town near the Municipal dumping ground, were considered unsuitable. Hence the school was moved to No. 1, Auckland Place, with effect from 1st September, 1936. But as No. 1, Auckland Place, was a very old house, the Corporation of Calcutta served notice to vacate immediately. So the school was again shifted to 25, Lansdowne Road. From the hygienic point of view this latter is the best house so far occupied by the Muslim Female Training School, Calcutta. There are Christian, Brahmo and Moslem families living in the locality. It is not a fact that many girls left the practising school on account of its being shifted to the present site. Arrangements have been made for the conveyance of pupils to and from their homes, free of charge.

The Bengal Jute Regulation Bill, 1940.

Mr. PRESIDENT: The House will now consider the Bengal Jute Regulation Bill, 1940. The Hon'ble Mr. Tamizuddin Khan.

The Hon'ble Mr. TAMIZUDDIN KHAN: Mr. President, Sir, I beg to move that the Bengal Jute Regulation Bill, 1940, as passed by the Assembly, be taken into consideration.

Sir, I would like briefly to place before the House a short history of this measure and the main problem of jute as it now stands in this province. Every one knows, Sir, that jute is of vital importance to this province and that the principal problem in connection with jute is that our cultivators should get a proper and a fair price for their commodity.

Now, every one knows that unless the supply of a commodity is adjusted to the demand, the producers of that commodity cannot expect a fair price. Although Bengal enjoys something like a monopoly in respect of jute, yet we very often see that our cultivators do not get a proper price for that. The reasons are mainly two. One is that our cultivators are ignorant and disorganized whereas the consumers are a highly intelligent set of people and also very well-organized. Another reason is that very often there is over-production, and if production is not adjusted to the demand prices are bound to fall. Honourable members of this House know, Sir, that, with a view to adjust production to demand, Government for several years past had been carrying on a propaganda for voluntary restriction of jute. The propaganda succeeded for a year or two, but later on it proved on the whole to be a failure, or at least not as much of a success as was expected. Therefore, every one began to think whether compulsory restriction should not be resorted to, and ultimately Government also were converted to the view that unless production was restricted by compulsion, *i.e.*, by legislation, there can be no means whereby production could be adjusted to the demand.

Last year, Sir, in spite of the fact that the stocks were not large, on account of the combination of the consumers and also certain other factors in the beginning of the season, prices were not as high as they were expected to be. Therefore, Government under those circumstances could do only one thing viz., to advise the cultivators not to dispose of their jute too quickly but to hold them on as far as they could. Government were not very optimistic that their advice would be followed, because the cultivators were poor and they were very much in need of money. In spite of that, it was very satisfactory to note that their advice was acted upon to a very great extent and that the cultivators did not bring their jute to the market as quickly as they would have otherwise done. The result was somewhat satisfactory and yet later on it was found that prices were still going down. At that time Government issued an Ordinance fixing a minimum price for jute in the *fatka* market. That had its desired effect. Shortly after that, there was the outbreak of the European war, but the situation that existed last year, a few months before the outbreak of the war, made the Government seriously think over the problem. They saw that unless something could be done for the next year's crop, namely,

the crop of 1940, a serious situation might arise. Therefore, Government thought that it would be advisable to make preparations for regulation of the crop of 1940. At that time, there was no jute on the land and in spite of that adverse circumstance, the Government decided to have a record of the land that was under jute in the year 1939. Accordingly, an Ordinance was promulgated and the work of the registration of the land under jute in 1939 began under that Ordinance. The present Bill was also introduced in another place in the November session, but unfortunately it could not get through that House on account of shortness of time and the Ordinance also expired, as laid down under the Government of India Act, six weeks after the commencement of the session. Therefore, for a time there was no law under which the records could be prepared, and as such, the remainder of the work of the preparation of the record was done under executive orders without the authority of any law.

Now, the present Bill has been passed elsewhere in the current session. I ought to have mentioned to you, Sir, although the honourable members know all this, that the Government wanted to translate their original intention of regulating the crop of 1940 and with that end in view, as the legislature was not in session in February last, an Ordinance was promulgated whereby it was sought to regulate the crop of 1940 to the same extent as was done in the year 1939. That regulation was to be based on the record that was prepared or was under preparation.

Now, Sir, I have already stated that the record was prepared under very adverse circumstances. It was to be prepared within a very short time and also at a time when there was no jute on the land. Therefore, naturally objections arose that the record prepared was wrong. That objection was not altogether invalid. The view of the Government, however, was that in spite of the fact that the record might not be as correct as it was desired, the work of the regulation of production of jute could be based on that record. But as the whole country seemed to be of the view that it would be unwise to go in for any regulation on the basis of the record that was prepared under those circumstances, Government had to give up the idea of regulating the crop of 1940, and as such, the Ordinance that was promulgated was withdrawn.

Now, the present proposal is that another record should be prepared as early as possible while the jute is on the land—another record of the crop of 1940. It is very important that this record should be prepared under the provisions of some law and not by executive orders as was done on the last occasion, because if the record is prepared not under the law but by simple executive orders, then when the

question of regulating the crop of 1941 will arise, objections might naturally be taken that as the record has not been prepared under any law, it would not be proper to pass any regulation on the record that has been prepared. Therefore, Government consider it very important that the coming record should be made under the present measure, namely, the Jute Regulation Bill when it is passed into an Act. In this respect, I am sorry to say, Sir, that I am in a somewhat awkward position. Very often this House has been approached by my colleagues with requests to pass certain measures very quickly without any changes, if possible. That is ordinarily not a proper request, because the House must be given an opportunity to apply its own mind to the particular measure and come to its own decision independently of any other considerations. I appreciate that point of view very much and therefore I would make a request to this House to accord special treatment to this measure, not because it is a measure of extreme urgency, as I have already pointed out, but if there is any great delay in passing this Bill, it would be extremely difficult for Government to make arrangements for the preparation of the next record while the jute is on the land. Once we fail to do that, the same objection will be raised against the next record also on the ground that it has not been prepared while the jute was on the land. Therefore, although I very much doubt the propriety of any request like that, under the peculiar circumstances of the case I would very humbly and earnestly request my honourable friends to try to see whether they could do without making any changes in this measure. Of course, if any question involving principles comes up, it will not be proper for them to ignore those things, but if the amendments suggested are not of a very serious character involving any question of principle, then I would certainly request my honourable friends to give their due consideration to the request that I have already made.

Sir, while I was speaking my esteemed friend Mr. Amulyadhone Roy interjected something about a minimum price of jute. That is a pertinent question. People very often think that Government have no idea of doing that as there is no provision of that character in the present measure. Sir, I would like to dispel any misapprehension like that. This Bill only proposes to regulate the production of the crop and for the regulation of the crop the necessary basis is the preparation of a record. These are the only two main things that have been provided for in this measure; but simple regulation may not serve the purpose always, sometimes it may. Simply if the crop is regulated, a situation may be created in which the prices may rise or at least the cultivators may get a reasonable and proper price for their crop; but on account of the combination of consumers and other adverse circumstances under which these cultivators live, it might be that in spite of regulation prices may not rise to the proper level. Therefore, it may

be necessary to fix a minimum price under those circumstances. Government always have that point of view before their mind and if it is necessary to fix a minimum price, Government will be prepared to do that. But simply because there is no provision of that character in the present Bill, it should not be surmised that Government have no idea of fixing a minimum price, if necessity arise.

I do not like to prolong my speech at this stage and with these few words, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Motion moved: that the Bengal Jute Regulation Bill, 1940, as passed by the Assembly, be taken into consideration.

Mr. LALIT CHANDRA DAS: Mr. President, Sir, I beg to move that the Bengal Jute Regulation Bill, 1940, be referred to a Select Committee consisting of:—

(1) The Hon'ble Mr. Tamizuddin Khan, Minister in charge of Agriculture and Veterinary Departments,

(2) Mr. Sachindra Narayan Sanyal,

(3) Rai Brojendra Mohan Moitra Bahadur,

(4) Raja Bhupendra Narayan Sinha Bahadur,

(5) Rai Sahib Indu Bhusan Sarker,

(6) Mr. W. B. G. Laidlaw,

(7) Khan Sahib Abdul Hamid Chowdhury,

(8) Khan Bahadur Rezzaqul Haider Chowdhury,

(9) Khan Bahadur M. Abdul Karim,

(10) Begum Hamida Momin, and

(11) the mover,

with instructions to submit their report by the 30th April, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

Sir, an Ordinance was passed restricting the cultivation of jute this year. That Ordinance was withdrawn. We have heard from the Hon'ble Minister the reasons why that Ordinance was withdrawn, but there are to my mind other grounds behind the scene. The grounds were that it was a hasty Ordinance, hastily drawn up, that a war was on and that the demand for jute would continue strong and in increasing scale so long as the war lasts. The tenants are now at liberty to grow as much jute this year as they like. These, we think, are the real grounds which forced the Government subsequently to withdraw the Ordinance. According to the declaration of statesmen at the head of the Governments of the belligerent countries

including Mr. Chamberlain, this war is expected to last for 3 years. This declaration supports my contention that there is now no just cause for any hasty and ill-considered legislation. The plea of urgency now urged by the Hon'ble Minister, I venture to submit, falls to the ground. At the same time, I must state at once that I appreciate the intention of Government to better the condition and prospects of all the jute-growers of Bengal, though in my opinion it is a halting measure and not at all comprehensive. The ostensible object of this Bill is to secure to the grower a fair and steady price for his produce by adjusting the supply of raw jute to the estimated world demand. So far so good, and I agree that for giving effect to the intention of the Bill the total area of land upon which jute is grown should be recorded. Sir, whether regulation of the production of jute should take the form of compulsion just at present or should be on voluntary basis for some time yet, is a question on which opinion is divided.

But, the truth is that so long as the war lasts the demand for jute and jute products will be on an increasing scale. A forecast of world demand as in normal times is bound to err to the disadvantage and loss to the peasantry of Bengal.

I, therefore, suggest that a select Committee should consider calmly and seriously how far the scope of the Bill can be widened and whether temporary provisions can be made to meet the exigencies of the situation having regard to the fact that in the neighbouring provinces of Bihar, Orissa, and Assam jute is grown on an unrestricted scale. Steps should be taken so that compulsion in Bengal may not be the opportunity for promiscuous sowing of jute in the latter provinces.

Sir, while this Bill seeks to commit the country to the principle of compulsory restriction in the cultivation of jute in certain defined areas, it has omitted to do the very things for which it professes to stand, viz., to secure to the grower a fair and steady price for his produce. I admit that the demand and supply should be co-related, as far as possible under the circumstances.

But, suppose, you calculate and give your orders to the cultivators and they obey, where is the guarantee that this method alone, unsupplemented by other and more effective methods, will produce the desired results?

You must take into consideration the staying power of the mills, the strength of the Mill-owners' Associations and put side by side the appalling poverty of the masses of jute-growers.

Sir, here it is that the Bill has stopped short of making provisions for the welfare of the jute-growers. Here, the fear of the Government for losing the votes of the European Group, which has kept it in

power, has entered into its head and so paralysed it that it refused to pursue its own good intentions to their logical conclusion. A Government which lives continuously in fear of the European votes can hardly be expected to behave otherwise. A Select Committee should sit and consider calmly and seriously whether it is not possible within the compass of this Bill and in conformity with the declared object of the Bill to secure to the growers the fruits of their labour by empowering the Government to fix the minimum price of jute and also by providing for the establishment of warehouses and marketing.

Sir, in reply to a question which I put in the mid-session of 1938 in this House, Government replied that they were preparing an Agricultural Produce Markets Bill with a view to regulating and controlling the marketing of jute. It is to be found on pages 76 and 77 of the proceedings of this House, 1938, Volume II. They promised to fix the price by provisions made in a Bill so far back as the mid-session of the Bengal Legislative Council in 1938. That promise should have been carried out by making provisions in this Bill.

It is not so much for commission as for omission that I charge the Government for its failure to stand by the people and those omissions I have just mentioned.

Yet, in the field of commission the Government have erred grievously—to put things mildly, in making provisions for the constitution of the Union Jute Committees which are not in conformity with the principles of democracy blended with the principles of business action.

Sir, a Select Committee should sit and consider fully and seriously how best they may change their constitution. Read clause 6 and the following clauses, and you will find that the Government have handed over to the Collectors a great and powerful hold on the economic condition of the people and a hold also on their liberty.

The cadre to which the Collector generally belongs is manned wholly by Indian Civil Service people of various hues—mostly white, who owe no allegiance to the legislature. So long as this Statute lasts—the Government of India Act, 1935, I mean—or so long as the Services under this statute are not provincialized, I cannot reconcile myself to the idea of giving almost unlimited powers to the Collector to guide and control the jute-growers of Bengal through the agency of the Committees which would be but their puppet shows. Those provisions are anti-democratic and anti-national and should be changed. It cannot be beyond the ingenuity of a Select Committee to suggest changes for setting up machineries which will be at once democratic and efficient and prove expeditious for the execution of duties and responsibilities in carrying out the purposes of the Bill.

Sir, I need not state here how many amendments I have suggested. The amendments on the Congress side, which is in a minority, fail because they are sponsored from the Opposition. But my friend Khan Bahadur Naziruddin Ahmad and Khan Bahadur M. Shamsuzzoha, both shining lights of the Government party in this House, have between themselves tabled about 100 amendments or more in a Bill of 23 clauses only. This fact alone should be sufficient for submitting this Bill for consideration by a Select Committee. Besides this fact, there are the reasons as stated by me previously why this Bill should go to a Select Committee. Possibly, this motion, as sponsored from this side of the House, will go the way they usually go, but I wish to emphasize the fact that though we are outvoted, we are hardly outargued and that we suffer from the tyranny of votes.

With these words, Sir, I venture to commend my motion to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that the Bengal Jute Regulation Bill, 1940, be referred to a Select Committee consisting of—

(1) The Hon'ble Mr. Tamizuddin Khan, Minister in charge of Agriculture and Veterinary Departments,

(2) Mr. Sachindra Narayan Sanyal,

(3) Rai Brojendra Mohan Moitra Bahadur,

(4) Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,

(5) Rai Sahib Indu Bhusan Sarker,

(6) Mr. W. B. G. Laidlaw,

(7) Khan Sahib Abdul Hamid Chowdhury,

(8) Khan Bahadur Rezzaqul Haider Chowdhury,

(9) Khan Bahadur M. Abdul Karim,

(10) Begum Hamida Momin, and

(11) the mover,

with instructions to submit their report by the 30th April, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I rise to support the motion for consideration of the Bill on the floor of the House and consequently to oppose the amendment of my friend, Mr. Lalit Chandra Das, for sending it to a Select Committee. My reasons for doing so are very brief. The measure is extremely simple and very urgent; the principles of the Bill are also extremely simple and easy while its provisions are very short and straightforward. My friend, Mr. Lalit

Chandra Das, has done us an honour by relying upon the number of amendments submitted by my humble self and Khan Bahadur Shamsuzzoha, but a careful consideration of those amendments should convince him that they are more or less of a drafting nature. They do not go straight against the principles of the Bill or any important details thereof. So, the mere number of tabled amendments should not frighten any one and should not stampede this House into a vote for the Select Committee. The simple principles of the Bill are based on regulation of the production of jute. That is again based on a well-known business principle, *i.e.*, where the supply of a commodity much exceeds the demand, it leads to disastrously low prices for the same in the market. Therefore, in order to adjust the supply to the demand there has been evolved the recognised and well-tried procedure of regulating production. This is the result of experiments made to cope with widespread over-production after the last war. There is the regulation of the production of rubber and it has been a continued and a signal success. The principle has been applied to Indian tea and the result has also been highly satisfactory. Many other commodities have been similarly regulated, and the result has been that a good price has been brought to the producer. That has been always so. The principle has been well established and the Bill adopts the same. There is, therefore, no question that the Bill is based on a sound principle. My honourable friend has, however, complained that the Bill does not in so many words, say anything about "bringing a fair price to the producer." I submit, Sir, that the mere mention of "securing a fair price to the producer" would not give him the same but the factors which are instrumental in securing a fair price to the producer are clearly provided for in the Bill. The Bill, of course, omits the political slogan "fair price to the producer", but provides an effective machinery to secure the same. If the cultivation of jute is regulated according to world demand, it will automatically bring a fair price to the producer. Therefore, the Bill lays its hands at the very root of the problem, viz., regulation. In order to effectively regulate the production of jute it is necessary first of all to prepare proper and accurate record of actual jute-growing lands. We must know the area and location of lands under actual cultivation of jute, their owners and other particulars. The Bill deals with the preparation of an accurate record of jute-growing lands in the province. That is the first part. The second part deals with the regulation of production. My honourable friend has complained that the Advisory Board and the local Committees, empowered to deal with the subject, are not democratic bodies and will be dominated by an undemocratic person, the Collector. But I am afraid, Sir, that a democratic body trying to deal with this extremely technical and difficult subject would be doomed to failure. The problem is not political but economic and requires businessmen and economists to solve. The presence of the Collector should not frighten

my friend. The Collector will be there to secure an accurate and good record. With regard to the Committees that are to be set up in the different unions, they should not also frighten anybody, because the policy and the percentage of restriction would be actually ordered by the Government on the advice of the Provincial Advisory Board. The Advisory Board would consider the various factors and interests, and there will be the various technical experts and various other interests in the Board who are competent to give advice, who know the problem of demand and supply, who know the circumstances which would be relevant——

Mr. LALIT CHANDRA DAS: What about the Jute Committees? Not the Advisory Board?

Khan Bahadur NAZIRUDDIN AHMAD: My friend perhaps means the Union Committees. They will be acting merely on the direction of the Government which would act on the advice of the Advisory Committee.

Mr. LALIT CHANDRA DAS: Not of the Collector? You read the sections carefully and you will find out the truth.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I have carefully read and analysed the Bill and have fully followed the subject. They will have merely to take the direction of the Collector not in matters of principle but in the matter of the proportion of lands to be cultivated. The principle and the proportion will be decided by the Government on the advice of the Advisory Board. I shall try to clear the difficulty of my friend. The difficulty of my friend is this: he thinks that the Collector will lay down and control the policy of the Union Committees. That is not so. The Provincial Advisory Board will be a body with technical and business experience They will try to find out the probable world demand and then to fix the supply so as not to exceed that demand. If they find that hundred per cent. production would lead to over-production, they will restrict the same. If they find, for example, that 90 per cent. of the total production will just meet the world demand, then they will say that the growers of jute throughout Bengal should cultivate 90 per cent. of their jute lands, that is, 10 per cent. of jute lands will not be cultivated. That will be laid down by the Government on the advice of the Advisory Board and the decision will be sent down to the different districts. The Collector will introduce no new principle or percentage, but accept the 90 per cent. decision and communicate the same to the Union Committees by means of licences fixing the 90 per cent. quota for each grower. The Union Committees will be under the administrative jurisdiction of the

Collector, but the limitation laid down by the Government on the advice of the Advisory Board will be there, and it will not be open to question by the Collector at all. The Collector will merely perform a mechanical part in the system. My honourable friend will do well if he will properly and calmly read the Bill as he ought to do instead of getting excited. If he would do that he would soon find that the Collector is not at all an object of terror to my friend or to anybody else.

The House will perhaps agree that in order to control the price, these factors are necessary and a fair price will follow as a matter of course. If the Government can find out the world demand, then the administrative machinery will solve the problem. The mere mention of securing a fair price by legislation will not secure it and the mere non-mention of it does not matter. The machinery will be there and will do the thing automatically, as night follows the day, if the supply can be regulated in accordance with the demand.

These are the simple provisions of the Bill and they are perfectly clear and the machinery is very simple. There is no question of a political cry in this Bill. It is an economic subject and must be dealt with by economists and businessmen without the help of the mere politician and without any heat or feeling and purely from a business point of view.

The preparation of the record should begin as early as possible, preferably early in April, because if the rains set in, the lands will be under water and it will be difficult to find out what land is under jute cultivation. Last year an attempt was made too late and the result has been, as has been pointed out by the Hon'ble Minister, that an unreliable record has been produced. In the circumstances, there should be no undue delay this time. No time should be wasted by sending the Bill to a Select Committee. If the Bill is sent to a Select Committee and if it reports by the 30th April, the House may take another 15 days to consider it and then send it to the other House. That will take us to May or June and the result will be that the object of the Bill will be completely frustrated for another year.

If it be my friend's object to do good to the jute-growers, then he should withdraw his amendment and in that way secure some amount of timely benefit to the cultivators. I, therefore, submit that the House should accept the motion for consideration of the Bill on the floor of the House and reject the proposal for sending the Bill to a Select Committee.

The Hon'ble Mr. TAMIZUDDIN KHAN: In spite of the trenchant language in which my honourable friend, Mr. Lalit Chandra Das, couched his speech, I find that there is very little difference between

his point of view and the point of view of the Government except that there are one or two misunderstandings here and there. First of all, my friend has said that there is no urgency for a measure like this, because the war is on and, according to his estimate, it is expected to last for about three years more. Government can neither be so optimistic nor pessimistic. We do not know how long the war is going to last, but let us pause for a moment to consider whether and how far the war affects the situation. There is somehow a vague notion prevailing in the country that the war is consuming a vast quantity of jute, so much so, that the jute-growing provinces may go on growing jute as much as they like without any fear of prices going down. That is absolutely a wrong idea. Up till now, in spite of the huge sand-bag orders, the total consumption of loose jute on account of war purposes has not been very much. I think (I cannot give the exact figure) the total quantity can never be above 10 lakhs of bales. Now, if the average production of jute in the jute-growing provinces is 100 lakhs of bales, we can easily see what percentage of that is likely to be consumed for war purposes. Last year, the production was about 107 lakhs of bales. According to our estimate, this year as there is going to be unrestricted production and as high prices have been prevailing for some time, there is every fear that the production will be very large and anything like 130 lakhs of bales or more may be produced. If that is so, if 10 or 20 lakhs of bales are consumed for war purposes, the remainder will be so large that the prices will certainly fall to a very low level, because the world consumption for other purposes can never, under ordinary circumstances, exceed 70 or 80 lakhs of bales. Therefore, the idea that as the war is continuing there is no necessity of restriction, is altogether wrong and I think my friends would do well to dispel that idea out of their minds.

Then, my friend has contended that this measure is not of a comprehensive character. I have already said that the Bill was conceived as an emergency measure so to say, because unless something is done very quickly the situation may become serious. That is a matter which should not be left out of consideration.

Mr. LALIT CHANDRA DAS: That you can do by Ordinance.

The Hon'ble Mr. TAMIZUDDIN KHAN: An Ordinance expires six weeks after the commencement of a session of the legislature. Therefore, it is of no use after that period. Unless there is a regular law in the Statute book, an Ordinance cannot help Government in doing any serious thing for a long time. I hope my friend will realise that.

I was going to say that simple regulation of the production of jute may not be enough. In the ordinary circumstances, it may be enough but there may be circumstances in which simple regulation of production may not be enough. Therefore, I said in my initial speech that

Government would be anxiously and carefully watching the situation and if it is necessary to fix a minimum price, that would be done; but the regulation of the production of jute is the basis on which the fixation of minimum price can be properly done. My friend reminded me of a previous promise of the Agricultural Minister. He had said that in order to be able to fix a minimum price, Government was examining the proposal for regulation of the crop. That statement also presupposes that regulation will be the thing on which the fixation of a minimum price has to be based. That is the basic thing and whether we think of werehouses or other methods, unless we try to regulate the supply to the demand, every other measure will be absolutely futile.

Mr. LALIT CHANDRA DAS: Will you bring a separate Bill?

The Hon'ble Mr. TAMIZUDDIN KHAN: Yes, certainly. If necessary, a separate Bill will be brought in. I am examining that question.

Mr. LALIT CHANDRA DAS: Then, why was it necessary in 1938 to say that provision will be made for compulsory restriction of the area of land as well as for fixing the price?

The Hon'ble Mr. TAMIZUDDIN KHAN: At that time the whole thing was in a nebulous stage Government was contemplating something, no final examination had been made and therefore a suggestion like that was made.

Here, I am stating on the floor of the House that Government have been examining a proposal to introduce a Bill for the fixation of a minimum price, and I emphasize that I am in no way less anxious than my friends to examine this question. I admit also that simple regulation of the jute crop may not be sufficient under the circumstances and on account of the combination of various factors it may be necessary that over and above the regulation of the crop, there should be fixation of a minimum price. Government will always be prepared to take all necessary steps.

There is another question to which my friend referred, namely, seeking the co-operation of other provinces. That is also a very important consideration and Government have already taken steps to secure the co-operation of other provinces. I can assure this House that unless ultimately the co-operation of the other jute-growing provinces can be secured, Bengal alone will not be in a position to enforce regulation. It will not be wise to regulate the production here in the absence of the co-operation of other provinces. I should, therefore, think that so far as other minor matters are concerned those can be thrashed out on the floor of the House.

My friend referred to the formation of the union jute committees. He also said that extensive powers are being given to the Collector, so much so that the Collector will guide and control the jute-growers of Bengal. I do not think my friend will be able to pick out any provision from this measure to show that the Collector is being given any power whatsoever to guide and control the jute-growers of Bengal. There is no provision like that. The jute committees will perform their simple and mechanical functions. They will only issue licences according to the instructions issued by the Government of Bengal. The Government of Bengal would decide whether there should be any reduction. If there is to be any reduction, whether it should be a four-anna or an eight-anna reduction, that will be fixed by Government and every cultivator will have a record of his jute land. If the reduction is to be four-annas and if the record of the cultivator shows that he sowed 16 bighas of land in a particular year, then 16 bighas will be reduced by four annas; his quota will be 12 bighas and the jute committee will simply record that in the licence,—a simple mechanical duty. However, it is a question which we shall consider later on.

I think in view of the urgency of this measure, as I have already pointed out, my friend will be pleased not to press his motion to a division.

Mr. LALIT CHANDRA DAS: In view of the very sympathetic statement made by the Hon'ble Minister I do not propose, Sir, to press my motion. I withdraw my amendment.

Mr. PRESIDENT: Is it the pleasure of the House to permit Mr. Das to withdraw his amendment?

(The motion was then, by leave of the House, withdrawn.)

Mr. PRESIDENT: The question before the House is: that the Bengal Jute Regulation Bill, 1940, be taken into consideration.

(The motion was agreed to.)

Clause 1.

Mr. PRESIDENT: Clause 1 stand part of the Bill.

Rai Sahib INDU BHUSAN SARKER: Mr. President, Sir, I beg to move that after sub-clause (*2*) of clause 1 of the Bill, the following new sub-clause be added, namely:—

"(*3*) It shall come into force on such date, after the termination of the war, as the Provincial Government by notification in the Official Gazette appoint."

Sir, in moving for the insertion of this sub-clause to clause 1, I would like to draw the attention of the House to the complete metamorphosis the war has brought about in the jute industry. Before the war, there was a glut in the industry and everybody was in favour of some sort of restriction. With the outbreak of the war, however, there has been a welcome change in the situation. The war has created a great demand for jute and jute goods, as a result of which prices of hessians and gunnies have gone up considerably. This rise in the prices of manufactured jute goods has also been reflected, though not to the same extent, in the prices of raw jute in the mufassil. Honourable members are aware that already in the last season the price of raw jute went up to as much as Rs. 16 or Rs. 17 per maund in the mufassil, though it had not been possible for the growers to take advantage of this rise to the fullest extent because of the fact that the rise in prices occurred later in the season by which time a large part of the year's crop passed into the hands of middlemen. Yet some advantages accrued to the growers. My contention, therefore, Sir, is that so long as the war continues, the demand for jute and jute goods will continue unabated. In all probability it will increase, and so no apprehension need be felt on account of a probable fall in prices. Even if the same level of production is maintained in the next season, the price of raw jute in the mufassil is sure to be in the neighbourhood of Rs. 15 or Rs. 16; in any case, it is not likely to fall below Rs. 12. I doubt very much, Sir, whether any other large-scale commercial crop can fetch better return per unit of land to the Bengali cultivator. I, therefore, see no reason in advocating a restriction of the jute crop or the growing of an alternative crop in its place. No alternative crop will yield the grower the same net profit as jute, so long as the demand for the latter remains at the existing level.

Sir, before I sit down I would like to draw the attention of the Hon'ble Minister in charge to the fact that probably yesterday an order for 5½ crores of sand-bags has been placed. Further, owing to the sinking of ships and other unforeseen factors, the demand for hessians and sand-bags has been mounting up, of late. So, the Hon'ble Minister will please consider whether it would be prudent at this stage to bring this legislation into operation, particularly when there is such a heavy demand for hessians and sand-bags.

With these words, Sir, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that after sub-clause (*2*) of clause 1 of the Bill, the following new sub-clause be added, namely:—

"(*3*) It shall come into force on such date, after the termination of the war, as the Provincial Government by notification in the Official Gazette appoint."

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, after what I have already stated, it is not necessary for me to make any lengthy statement in opposing my friend's amendment. Probably there is some misunderstanding in his mind. All that the Bill does is to give the Government power to register the land under jute cultivation in a particular year. As a matter of fact, Government propose to register the lands under jute in the current year 1940. Thereafter, the Bill also seeks to give power to Government to regulate the crop, if and when necessary. If conditions prevail which show that no regulation is necessary, Government will certainly take stock of the situation and will decide then, say probably in November next, whether or not to regulate the crop of 1941. If my friend's amendment is passed, then the effect will be that even if regulation seems to be necessary at a later date, Government will not be in a position to do so till the war terminates. Therefore, I think that if it is based on a misunderstanding, my friend will withdraw it. Otherwise, I oppose it.

Rai Sahib INDU BHUSAN SARKER: Sir, in view of the remarks which have fallen from the Hon'ble Minister, I beg leave of the House to withdraw my amendment.

Mr. PRESIDENT: Is it the pleasure of the House to permit Rai Sahib Indu Bhusan Sarker to withdraw his amendment? (Cries of "Yes, yes.")

(The amendment was then, by leave of the House, withdrawn.)

Mr. PRESIDENT: That question before the House is: that clause 1 stand part of the Bill.

(The motion was agreed to.)

Clause 2.

Mr. PRESIDENT: Clause 2 stand part of the Bill.

Rai Sahib INDU BHUSAN SARKER: Mr. President, Sir, I beg to move that in sub-clause (*1*) of clause 2 of the Bill, after the word "Crown" in line 2, the words "not below the rank of a Sub-Deputy Collector" be inserted.

Sir, it is a very simple amendment. Under this Act the Collector of the district has been proposed to be vested with wide and large discretionary powers. To see that these powers are not misused, it is highly desirable that the officers who may be empowered to act on behalf of the Collector should be of a responsible cadre and such as

would inspire public confidence. Such an officer should also be above corruption and party influence. Therefore, it has been proposed that he should not be one below the rank of a Sub-Deputy Collector.

With these words, Sir, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 2 of the Bill, after the word "Crown" in line 2, the words "not below the rank of a Sub-Deputy Collector" be inserted.

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, I oppose this amendment. The idea that my friend has in his mind, viz., that the officer concerned should be of a sufficiently high rank is acceptable to Government, but it will be unwise to limit it to the category of Sub-Deputy Collectors. If that is done, the officers of other categories will not be permissible to be employed for this particular work at all. There is also another thing, Sir. On account of the fact that jute regulation and restriction of output are assuming a good deal of importance, it may be necessary to employ a permanent staff for this work and the higher officers of that service also may be appointed as Collectors for the purposes of this measure. Therefore, if my friend restricts the thing only to the category of Sub-Deputy Collectors, unnecessary difficulties will crop up. I, therefore, oppose the amendment.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) of clause 2 of the Bill, after the word, "Crown" in line 2, the words "not below the rank of a Sub-Deputy Collector" be inserted.

(The amendment was negatived.)

Mr. PRESIDENT: Khan Bahadur Naziruddin Ahmad, you don't move any of your amendments?

Khan Bahadur NAZIRUDDIN AHMAD: I shall move only one formally and withdraw it subsequently. I shall ask your permission to move No. 5A of which notice has been given rather late.

Khan Bahadur NAZIRUDDIN AHMAD: Mr. President, Sir, I beg to move that in clause 2 of the Bill, in sub-clause (*4*), the words "when used in relation to jute" in line 2, be omitted.

This amendment relates to the definition of the word "grow" as given in sub-clause 2 (*4*). The language used there means that the word "grow" with its grammatical variations *when used in relation to*

jute, includes "sow" and the grammatical variations thereof, irrespective of whether the jute is harvested or not. Sir, I have examined the whole Bill with meticulous care and I find that the word "grow" or its grammatical variations have always been used in relation to jute. There has not been a single exception to this. The precaution implied by the words "when used in relation to jute" are absolutely unnecessary. These words, Sir, are, therefore, clearly redundant and hence I want to omit them.

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, what my friend says may be correct. The words seem to be redundant but, as they stand, they are harmless and in that view of the matter, I hope my friend will kindly withdraw his amendment.

Khan Bahadur NAZIRUDDIN AHMAD: In that case, Sir, I beg leave of the House to withdraw my amendment.

Mr. PRESIDENT: Is it the pleasure of the House to grant Khan Bahadur Naziruddin Ahmad permission to withdraw his amendment? (Cries of "Yes, yes.")

(The amendment was then, by leave of the House, withdrawn.)

Mr. PRESIDENT: You do not want to move any of your amendments?

Khan Bahadur NAZIRUDDIN AHMAD: I do not want to move most of the amendments which stand in my name in view of the urgency of this Bill. I shall, however, move later on one or two amendments.

Mr. PRESIDENT: The question before the House is: that clause 2 stand part of the Bill.

(The motion was agreed to.)

Clause 3.

Mr. PRESIDENT: Clause 3 stand part of the Bill.

Rai Sahib INDU BHUSAN SARKER: Mr. President, Sir, I beg to move that in sub-clause (*1*) of clause 3 of the Bill, for the word "or" in line 2, the words "and subsequently" be substituted.

Sir, the amendment proposed deals with the preparation of record of lands on which jute was grown in any year. If the Government mean business, record of lands must be prepared for the whole of

Bengal and not for any part thereof, so that Government may take suitable action on the results of the survey thus obtained. Subsequently, if the returns obtained for any particular area are found to be incorrect or in any way unsatisfactory, then Government might make a fresh record for that area.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 3 of the Bill, for the word "or" in line 2, the words "and subsequently" be substituted.

The Hon'ble Mr. TAMIZUDDIN KHAN: I oppose the amendment. The effect of this amendment will be that after the first record is made, Government will be precluded from preparing a record for the whole of Bengal. If my friend's amendment is accepted, that will be the result. I think that will not at all be a desirable situation. It may be necessary later on to have a record for the whole of Bengal but if my friend's amendment is accepted, it will not be possible to do that.

Rai Sahib INDU BHUSAN SARKER: Sir, I beg leave of the House to withdraw my amendment.

Mr. PRESIDENT: Is it the pleasure of the House to permit Mr. Sarker to withdraw his amendment?

(The amendment was then, by leave of House, withdrawn.)

Rai SURENDRA NARAYAN SINHA Bahadur: I beg to move that in sub-clause (*1*) of clause 3 of the Bill, after the words "such year" in line 5, the words "or years" be inserted.

Mr. PRESIDENT: Motion moved: that in sub-clause (*1*) of clause 3 of the Bill, after the words "such year" in line 5, the words "or years" be inserted.

The Hon'ble Mr. TAMIZUDDIN KHAN: It is unnecessary. I oppose it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) of clause 3 of the Bill, after the words "such year" in line 5, the words "or years" be inserted.

(The amendment was negatived.)

Mr. LALIT CHANDRA DAS: I beg to move that in sub-clause (*2*) of clause 3 of the Bill, the words "of land" in line 4, be omitted.

It says "in any notification under sub-section (*1*) the Provincial Government may further direct that, in any area specified in the notification, any grower of jute whose entire holding or any portion thereof of land in respect of which a record is to be prepared.....". It seems to me that the words "of land" are redundant and do not carry any meaning whatsoever in view of the expression "whose entire holding or any portion thereof." I, therefore, move that the words "of land" be omitted.

Khan Bahadur NAZIRUDDIN AHMAD: I also tabled a similar amendment but on reconsideration I find that I was wrong. Consequently, my friend is also wrong. The text says, "whose entire holding or any portion thereof of land." These two should have been taken together. I think the meaning is quite clear. So, the words "of land" should stand.

The Hon'ble Mr. TAMIZUDDIN KHAN: I oppose the amendment. My honourable friend Khan Bahadur Naziruddin Ahmad has given the reasons. I only like to point out that in clause 3(*1*), Government are given power to direct the preparation of records of land and the notification is with respect to that. Therefore, the words "of land" have been introduced in sub-clause (*2*). It actually means the entire holding or any portion thereof. If the words "of land" were placed just after the word "holding", perhaps the meaning would have been more clear but in spite of this, I do not think the meaning has been made obscure and in that view, I oppose the amendment.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*2*) of clause 3 of the Bill, the words "of land" in line 4, be omitted.

(The amendment was negatived.)

Khan Bahadur M. SHAMSUZZOHA: I beg to move that in sub-clause (*3*) of clause 3 of the Bill, after the word "jute" in line 4, the words "or grew less" be inserted.

Sir, section 3 enumerates the circumstances in which the record will be prepared and sub-section (*1*) of section 3 says that the Provincial Government may by notification direct that a record shall be prepared of all lands in which jute has been grown by a grower of jute in the year specified in the notification. That is to say, a general notification will be issued under which there should be a survey of all lands in which a jute-grower grew jute in that particular year as mentioned in the notification. Sub-section (*3*) makes provision in respect of a person who did not grow jute in that particular year and lays down that that person will have a right to apply to a special officer, who will

be appointed under section 4 (2), to have entered in the record any land in such area on which he grew jute in any of the years immediately preceding the year for which the notification has been made. The person who did not grow jute in that particular year will get the right to have any land recorded in which he grew jute for three years preceding the year for which the notification has been made. But the Bill has not provided for some cases which, I think, would arise in the actual working of the Bill when passed into an Act. What I mean is: that there may be cases in which although a certain person who did not grow jute crop in a particular year, for which the notification has been made, grew some jute in the previous year but not in sufficient quantity as he would have done in the ordinary circumstances, that person will not have the right to have the whole area of land in which jute could be grown recorded. With a view to meet the cases of such persons, I think it desirable that the words "or grew less' should be inserted. I hope this amendment will be accepted by Government.

Mr. PRESIDENT: Amendment moved: that in sub-clause (3) of clause 3 of the Bill, after the word "jute" in line 4, the words "or grew less" be inserted.

The Hon'ble Mr. TAMIZUDDIN KHAN: I do not know whether my friend's apprehensions are well founded. Probably someone might put an interpretation like the one my friend seeks to put on the clause, but my view is that when the words "growing of jute" are used, the growing must be in relation to some land. Therefore, whenever the question of a particular land will arise, if there is no jute on that land in the year, the owner of that land will always be able to say that in some one of the three preceding years he actually grew jute. Therefore, he will be able to get that land recorded. My friend's apprehension is that the man who did not grow jute on any land in his possession in any particular year will get the advantage of this clause; but a man who ordinarily grows jute on 10 acres of land but in the year in question sows jute on 8 acres of land, that man will be precluded from taking advantage of this clause. I do not think he is right, because so far as the remaining 2 acres of land are concerned on which there was no jute in the year under question, he will always be able to show that as he had sown jute on that land on one of the three preceding years that land should be recorded. Government will put that interpretation on that clause and will proceed on the basis of that and I do not think my friend need have any misapprehension. I can assure him that the purpose he has in view will be fully served, because Government will proceed on the basis as I have mentioned. I hope my friend will withdraw his amendment.

Khan Bahadur M. SHAMSUZZOHA: In view of what the Hon'ble Minister says, I beg leave to withdraw my amendment.

Mr. PRESIDENT: Is it the desire of the House to permit the honourable member to withdraw his amendment?

(The motion was then, by leave of the House, withdrawn.)

Mr. LALIT CHANDRA DAS: I beg to move that in sub-clause (*3*) of clause 3 of the Bill, for the word "three" in line 8, the word "five" be substituted.

This clause lays down that the land that was cultivated for the growing of jute during the preceding three years should be recorded. But I submit that there are many cultivators in Bengal who owing to the fall in prices did not care to grow jute on their own lands during the preceding three years. So, I suggest that instead of three years the period should be raised to five and record should be prepared accordingly.

With these words, I move my motion.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*3*) of clause 3 of the Bill, for the word "three" the word "five" be substituted.

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, a limit must be put somewhere and we thought it proper that a period of three years was a sufficiently long period. If we go beyond three years, it will be absolutely impossible to find any data whatsoever to ascertain whether there was any jute on any land before three years. In that view, I do not think that if this amendment is accepted, the position will improve. Moreover, in view of the fact that there is not going to be restricted sowing in the present season and that the Government would only be engaged in preparing a record of the lands this season, I do not think there is any necessity of any provision like that, because almost every one is going to sow or in other words, there are going to be very large sowings in the present year. So, I oppose the amendment.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*3*) of clause 3 of the Bill, for the word "three" in line 8, the word "five" be substituted.

(The amendment was negatived.)

Mr. LALIT CHANDRA DAS: Sir, I beg to move: that in sub-clause (*4*)(*a*) of clause 3 of the Bill, for the words "at the time and place specified in the notice" appearing in lines 4 and 5, the words, "at a time between hours 11 a.m. and 4 p.m. and at a place which shall not be more than six miles from the place of residence of persons required to attend" be substituted.

Sir, this is a penal clause. It provides that persons can be made to attend before a recording officer at a time and place specified in the notice. I know of many instances, Sir, in which the villagers have been subjected to considerable hardship. During the time when an attempt was made by the Government to destroy water-hyacinth, the people were called from a distance of 24 miles or so and made to attend courts situated at a distance of even 24 or 25 miles and that at a time which never suited their purpose and they were made to remain in those places for two or three days continuously for no other offence but that a circular order was issued by the President and that was not carried out within time. Now, that is a very dangerous power that has been given to the recording officer, namely, to call people from their homes irrespective of the distance. A time and place should be fixed and the cultivators should not be made to travel a distance of 20 to 24 miles and should not be asked to dance attendance on the officers at a time that will not suit them. They should also not be made to stay there for long. So, in the interests of the cultivators, I have suggested that the time should be fixed between the working hours, say, between 11 a.m. and 4 p.m. and the place should not be more than six miles from the residence of the persons who will be required to attend. With these words, Sir, I commend my amendment.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*4*)(*a*) of clause 3 of the Bill, for the words "at the time and place specified in the notice" appearing in lines 4 and 5, the words "at a time between hours 11 a.m. and 4 p.m. and at a place which shall not be more than six miles from the place of residence of persons required to attend" be substituted.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to oppose this amendment. In opposing this amendment I want to make the position of our party clear with regard to many of our amendments. They are more or less of a drafting character. It is not our case that these amendments are not necessary. They would in some cases improve the text. But the extreme urgency of the occasion induces us to withdraw most of our amendments and to oppose other amendments in the House. The present one is merely a drafting amendment and, if carried, will seriously delay the passage of the Bill. If the Bill

does not become law by the early part of April, the very object of the Bill, namely, securing good price to the growers, the people for whose interest we have in view, would be frustrated. We have to choose between two evils. One is the loss of better draftsmanship; the other is the loss of benefit to the peasantry. We have preferred to suffer in draftsmanship rather than to allow the interests of the jute-growers to suffer. This is the real position. In this view of the matter, we propose not to move our amendments except one or two, simply to make our position clear in respect to them. With these words, Sir, I oppose the amendment. It must not, however, be supposed that I am not in sympathy with the nature and object of the amendment. As a matter of fact, I have myself submitted one amendment exactly on similar lines, but I have explained the reasons which have induced me to oppose this amendment.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I also oppose this amendment on grounds of practical difficulty. The preparation of the record will not be done in a court or in some place where any court is being held. So, the time cannot be fixed as between 11 a.m. and 4 p.m. The record will be prepared in the summer time and it is always convenient in this season either to prepare the record or to furnish the data for the preparation of such record in the morning. If the time is fixed as suggested by the mover of this amendment, it will result in the records being prepared off-hand and in a haphazard manner. This is one practical difficulty.

Then, there is another difficulty also. The mover wants to restrict the distance saying that nobody should be called upon to travel a distance of more than six miles. Sir, a person may have lands 15 miles or 20 miles away and if he absents himself and there is no proper arrangement for identification of his lands, his lands would not be properly recorded and evidently the records will be all wrong and full of mistakes. In view of this practical difficulty, I oppose the amendment.

The Hon'ble Mr. TAMIZUDDIN KHAN: As much has been said by the previous speakers in opposition to this amendment, I do not want to say anything and I simply oppose this amendment.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*4*)(*a*) of clause 3 of the Bill, for the words "at the time and place specified in the notice" appearing in lines 4 and 5, the words "at a time between hours 11 a.m. and 4 p.m. and ~~at a place~~ which shall not be more than six miles from the place of residence of persons required to attend" be substituted.

(The amendment was negatived.)

Mr. PRESIDENT: Do you move amendment No. 47, Mr. Das?

Mr. LALIT CHANDRA DAS: No, Sir. This being more or less identical with No. 41, which was negatived by the House a few minutes ago, I do not move this amendment.

Mr. PRESIDENT: All right.

I have got to attend a meeting of the Empire Parliamentary Association at 4 p.m. So, I shall adjourn the House a little earlier to-day.

Laying on the Table rules framed by the Government of Bengal in accordance with section 133(3) of the Motor Vehicles Act (Act IV of 1939).

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, may I with your permission lay before the House, in accordance with section 133(*3*) of the Motor Vehicles Act (Act IV of 1939), rules framed by this Government? The rules were published in the "Calcutta Gazette" on the 14th March and perhaps copies of the Gazette are already in the hands of the honourable members.

Mr. PRESIDENT: To make the matter clear, I read section 133(*3*) under which the Hon'ble Minister has laid the rules on the table of the House. The Act is the Motor Vehicles Act and it is a Government of India Act. Sub-section (*3*) of section 133 of the Motor Vehicles Act reads thus—

"All rules made under this Act by the Central Government or by any Provincial Government shall be laid before not less than 14 days before the Central or Provincial Government, as the case may be, as soon as possible after they are made, and shall be subject to such modification as the Legislature may make during the session in which they are so laid."

So, under this section the Local Government has made rules. They have been published in the Gazette on March 14 and a copy is also laid on the Table.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir, here is the copy.

Mr. PRESIDENT: These rules shall be subject to such modification as the Legislature, *i.e.*, both the Houses, may make during the session in which they are so laid. Now, it is for the honourable members to suggest any modification, if they so like.

Khan Bahadur NAZIRUDDIN AHMAD: In that case, Sir, we desire that copies should be circulated to us and also some time should be given to us within which to submit our amendments.

Mr. PRESIDENT: It has been published in the Gazette of the 14th of March, 1940, and I believe a copy of the Gazette is usually supplied to all members.

Rai Sahib INDU BHUSAN SARKER: Sir, the difficulty is that the Gazettes are generally sent to our home addresses and are not, therefore, readily available to us just now. So, it would be better if a copy of the Gazette should be distributed to us here and now.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: If it is the desire of the House that copies should be circulated, Government will certainly arrange for their distribution to honourable members.

Mr. PRESIDENT: If any modifications are to be suggested, it must be done within fourteen days from now.

Rai Sahib INDU BHUSAN SARKER: We shall take some time to put in our amendments.

Mr. PRESIDENT: The procedure will have to be settled first. This is the first time that we have to deal with a matter of this kind. Provision has been made for dealing with such matters under Rule 11 of the Bengal Legislative (Joint Sittings and Communications) Rules by means of a joint conference of both the Chambers. It will be for the House finally to decide what particular procedure they would like to adopt. Rule 11 of the Bengal Legislative (Joint Sittings and Communications) Rules reads thus:—

".....If in respect of any matter a conference between the Chambers is considered desirable, and a resolution is passed in either Chamber that the matter should be discussed at a conference, a message shall be sent to the other Chamber to inform it of the resolution and to desire its concurrence in the resolution."

That is one procedure that may be adopted for settling matters of this nature.

There may, however, still be difficulties in this procedure. Some amendments may be accepted by this House while other amendments of a different or opposing nature may be suggested in the other House, on the same clause. So, the decisions of the two Houses will be different and contradictory, and it may not be possible to reconcile the

modifications suggested by the two Houses. It is, therefore, preferable to move a resolution in this House for the appointment of a small committee and to request the other House to agree to the appointment of a similar committee for the purpose of discussing the matter jointly and coming to a settlement, so that only agreed amendments may be placed for acceptance by the two Houses.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, what I would suggest is this. Let Government circulate copies of the Gazette to honourable members first, so that they may be in a better position to make up their minds on the procedure they would like to follow.

Mr. RANAJIT PAL CHOUDHURY: Sir, may I enquire of the Hon'ble Minister in charge whether Government intend to take the opinion of the Automobile Association of Bengal in this respect?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That question does not arise here.

Mr. PRESIDENT: Yes, that question does not arise in this connection. As Sir Bijoy has suggested, the draft rules under the Motor Vehicles Act may now be circulated to all honourable members. If no notice of amendments are received, then no question of procedure need be settled in this House. But if any member gives notice of any amendment, then the House will necessarily have to decide on the consequential procedure to be followed.

Mr. KAMINI KUMAR DUTTA: Sir, on just looking at the rule to which reference was made by you, I find that if any amendments are to be suggested by the members, it could be done within a period of fourteen days. So, it is apparent that this House has to wait in any case for fourteen days to see if any amendment is suggested by any member. I submit, Sir, that this period of fourteen days is allowed by the Statute itself.

Mr. PRESIDENT: But the difficulty in the present case is: that the House may not be sitting for another fourteen days. So, I would request the honourable members to go through the rules as quickly as possible and if there is no necessity of giving notice of any amendments, then there is no necessity also to decide upon any procedure. But if any honourable member feels that there should be some modifications of the rules, he should give notice of his amendments as early as possible.

Mr. KAMINI KUMAR DUTTA: In that case, Sir, Government might expedite the supply of copies.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, some copies are here and they may be distributed to those members who are present here just now.

Mr. PRESIDENT: There is one other matter. A suggestion has been made to the Chair by the Government Whip that the House might sit to-morrow morning. If there is no objection from honourable members, then the Chair will have no objection too.

As there seems to be no objection, I adjourn the House till 9 a.m. to-morrow.

Adjournment.

The Council then adjourned till 9 a.m. on Wednesday, the 20th March, 1940.

Members absent:

The following members were absent from the meeting held on the 19th March, 1940:—

(1) Mr. Nur Ahmed.
(2) Rai Bahadur Keshab Chandra Banerjee.
(3) Mr. Shrish Chandra Chakraverti.
(4) Mr. Humayun Reza Chowdhury.
(5) Khan Bahadur S. Fazal Ellahi.
(6) Khan Bahadur Alhadj Khwaja Muhammad Esmail.
(7) Nawabzada Kamruddin Haider.
(8) Khan Bahadur Syed Muhammad Ghaziul Huq.
(9) Alhaj Khan Bahadur Shaikh Muhammad Jan.
(10) Mr. Humayun Kabir.
(11) Maulana Muhammad Akram Khan.
(12) Mr. H. G. G. Mackay.
(13) Dr. Radha Kumud Mookerji.
(14) Rai Bahadur Satis Chandra Mukherji.
(15) Mr. H. P. Poddar.
(16) Khan Bahadur Mukhlesur Rahaman.
(17) Mr. J. B. Ross.
(18) Mr. Sachindra Narayan Sanyal.
(19) Rai Saheb Jatindra Mohan Sen.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Buildings, Calcutta, on Wednesday, the 20th March, 1940, at 2-15 p.m. being the fourteenth day of the First Session, pursuant to section 62(2)(*a*) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Registrar of Co-operative Societies.

69. Mr. RANAJIT PAL CHOWDHURY (on behalf of Mr. Kamini Kumar Dutta): (*a*) Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state if it is a fact that since the present Registrar of Co-operative Societies assumed charge of the Co-operative Department, he has been responsible for the starting and administration of the following funds (in addition to the already existing Registrar's Development Fund):—

(*i*) The Earthquake Relief Fund;

(*ii*) King-Emperor's Silver Jubilee Fund;

(*iii*) Bengal Provincial Co-operative Bank's Collection Fund: and

(*iv*) Co-operative Brotherhood Fund;

(*b*) If the answer to question (*a*) be in the affirmative, will he be pleased to state whether all these funds were started with the previous sanction of the Government, or has the rule laid down in the Government Servants' Conduct Rules in regard to the matter been kept in abeyance?

(*c*) Will the Hon'ble Minister please further lay on the Table a statement showing—

(*i*) the number of co-operative societies and banks ~~which have~~ contributed to each of these funds separately;

(*ii*) the number of co-operative officers who have contributed to each of these funds separately;

(*iii*) the proportion of subscriptions to the total amounts received from (*i*) and (*ii*) in case of each of the aforesaid funds; and

(*iv*) the total amount received, disbursed and balance, if any, lying with the Registrar in each case?

(*d*) Will the Hon'ble Minister be so good as to state where and by whom the accounts of each of these funds were audited and, if so, to place the audited accounts on the Table?

MINISTER in charge of the CO-OPERATIVE CREDIT and RURAL INDEBTEDNESS DEPARTMENT (the Hon'ble Mr. Mukunda Behary Mullick): (*a*) No.

(*b*) and (*d*) Do not arise.

(*c*) As the department did not start or administer any such fund, it is not in a position to supply these details.

Presentation of the Seventh Report of the Committee of Privilege.

Khan Bahadur M. ABDUL KARIM: I beg to present the Seventh Report of the Committee of Privilege, dated the 19th March, 1940, in which the Fifth and Sixth reports were reconsidered in pursuance of a resolution adopted by this Council.

Mr. PRESIDENT: Will you please read it?

Khan Bahadur M. ABDUL KARIM: "We, the members of the Committee of Privilege appointed by the Bengal Legislative Council, have the honour to submit this our report on the motions adopted by the Council at its meeting held on the 16th January, 1940, referring back to us our Fifth and Sixth Reports, for reconsideration.

"The Committee sat on the 26th February and 11th March, 1940, for disposing of the matters referred to them.

"With regard to the matter arising out of some comments published in the *Azad* in its issue of the 30th May, 1939, about the conduct of some members of the Council in connection with the discussion of the Calcutta Municipal (Amendment) Bill, 1939, the Committee requested the Editor of the *Azad* to appear before them and give his explanation in the matter.

"Accordingly, the Acting Editor of the *Azad* appeared before the Committee on the 26th February, 1940, and expressed regret for the comments published in his paper on the 30th May, 1939, to which exception had been taken.

"Thereupon, the Committee unanimously adopted the following resolution:—

'The Acting Editor of the *Azad* appeared before the Committee and expressed his regret for what had appeared in his paper on the 30th May, 1939, by way of comments on the conduct of some members of the Council in connection with the discussion on the Calcutta Municipal (Amendment) Bill, 1939. In these altered circumstances, the Committee is of opinion that no further action need be taken.'

"The Committee again met on the 11th March, 1940, to consider the matter relating to the *Hindusthan Standard* and the *Ananda Bazar Patrika* which had been dealt with in its Sixth Report. As no move was made on behalf of the offending papers to make amends for the breach of the privileges of the Council committed by the publication of comments casting reflection on the dignity of the Chair in their issues of the 5th May, 1939, the Committee unanimously adopted the following resolution:—

'With reference to the matter relating to the *Hindusthan Standard* and the *Ananda Bazar Patrika*, which was dealt with in the Sixth Report of the Committee, in the absence of any new matter the Committee adheres to its former decision on the subject'."

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that the two resolutions adopted by the Committee of Privilege at its Seventh Meeting be adopted by the House.

Mr. PRESIDENT: Motion moved: that the report of the Committee of Privilege be adopted.

In the report relating to the *Ananda Bazar Patrika* and the *Hindusthan Standard*, the decision referred to in the previous report of the Committee of Privilege is as follows:—

"This Committee gave several opportunities to the Editors of the two papers—*Ananda Bazar Patrika* and *Hindusthan Standard*—to explain their points of view, but they failed to avail themselves of the same. The Committee considered the comments appearing in the said newspapers and are of opinion that they offend against the privileges of this House. The Committee, therefore, recommend that the representatives of the two papers should be debarred from the privilege of being provided with Press Gallery tickets for the purpose of taking down the proceedings of the meetings of the Council until they tender an apology."

The question before the House is: that the report be adopted.

(The motion was agreed to.)

Conference to consider Bengal Motor Vehicles Rules, 1940.

The Hon'ble Khwaja Sir NAZIMUDDIN: With your permission, Sir, at short notice I would like to move a resolution suggesting that a Joint Conference of members elected from the two Chambers be held to consider the rules under the Motor Vehicles Act which were laid on the table yesterday. This will be my first resolution. Then, I want to move another resolution if this is carried, proposing the names of the members of the conference.

Mr. PRESIDENT: Will you formally move it?

The Hon'ble Khwaja Sir NAZIMUDDIN: I formally move: that a Joint Conference, as contemplated under rule 11 of the Bengal Legislative (Joint Sittings and Communications) Rules, may be called.

Mr. PRESIDENT: Motion moved: that a Joint Conference of members elected from both Chambers of the Bengal Legislature be called to consider the draft rules made by the Government of Bengal under the Motor Vehicles Act.

Mr. LALIT CHANDRA DAS: On a point of information. May I know whether the Joint Conference will consist of the members of both the Houses?

Mr. PRESIDENT: A Joint Conference, as contemplated under section 11 of the Bengal Legislative (Joint Sittings and Communications) Rules, is as follows:—

"If in respect of any matter a Conference between the Chambers is considered desirable and a resolution is passed in either Chamber that the matter should be discussed at a Conference, a message shall be sent to the other Chamber to inform it of the resolution and to desire its concurrence in the resolution."

The second sub-section reads thus: "If the other Chamber agrees, a motion shall be made in each Chamber nominating the members of that Chamber who are to represent it at the Conference. At the Conference each Chamber shall be represented by an equal number of members."

Mr. LALIT CHANDRA DAS: On a point of further information. May I know whether the members of this House will get an opportunity to submit their amendments to the rules? I hope sufficient time will be given.

The Hon'ble Khwaja Sir NAZIMUDDIN: The procedure that I would suggest is that those members who will be included in the Conference will go thoroughly into the question and other members of the House should send in their suggestions to the Conference. Those suggestions will be discussed. Where it will be seen that there is an agreement, Government can give effect to that suggestion by executive action also and where there is no agreement, in those cases the House can decide as they like.

Mr. KADER BAKSH: I suppose there will be a President of the Conference?

Mr. PRESIDENT: That has been provided in another section of the Governor's Rules.

Khan Bahadur NAZIRUDDIN AHMAD: I submit that it would be better to allow the Joint Conference to do what they can to arrive at an agreement. In cases where there is a difference, it will be better for the House to consider the points. There are no prescribed rules or precedents regarding this. So, if there is a desire to resolve all the differences between the two Houses, and if the Committee agree and also Government agree, then a short-cut procedure might be evolved. Otherwise, there will be trouble in cases of difference. If we go through the ordinary procedure prescribed in the case of amending Bills, it will lead to considerable delay. The Chair pointed out the other day the difficulties of a joint session, rules for which have not been provided for. So, the Joint Conference should sit and try to resolve their differences and come to an agreement which will be a far better procedure? That is all, Sir, that I wish to submit in this connection.

Mr. PRESIDENT: It has been suggested by the Hon'ble the Home Minister that all the amendments that the honourable members of the Council desire to give notice of should be sent to that Conference. The Conference will consist of equal number of members from both the Houses and it will have the right by a majority to decide on all these points. In the case of equality of votes, the question shall be decided in the negative. The Chairman will have no casting vote.

Mr. LALIT CHANDRA DAS: On a point of information. Supposing some members of the Legislature who are not members of the Conference send in their amendments, will they have the right to advance their arguments before that Conference, so that the members of the Conference may hear them and then decide about the amendments?

Mr. PRESIDENT: As regards the procedure, it will be for the Conference itself to decide. But the rule as provided under the Bengal Legislative (Joint Sittings and Communications) Rules says that the provisions of the Bengal Legislative Council (Governor's) Rules shall, as far as may be, apply. And as in a Select Committee, the members of the Legislature will have the right to attend but not to take part in the proceedings of the Conference. It will be for the Conference to decide whether it will allow the other members to move amendments or to make speeches in support of them.

Mr. LALIT CHANDRA DAS: Will the Hon'ble the Home Minister please listen to what I am putting in? The point is whether if we send in our amendments, we will have the right to press our arguments, or whether our amendments will be accepted or not. As I understand from the President's ruling that there being no such provisions in the Governor's Rules, the rules of the Bengal Legislative Council will apply. I only want to know whether if we put our amendments, we will have the right to press our amendments and give arguments and then ask for a decision. Will this procedure be adopted in the Conference? I would also like to know whether those rules will apply for sending in amendments to this Conference and also whether we shall have the right to press our amendments there.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, the procedure of the Conference will be something like what obtains in the case of Select Committees, and I do not think that members, who are not members of the Select Committee, will be permitted to support their amendments by arguments. But in a particular case if the suggestion is a valuable one, it is quite possible that the Conference may lay down its own procedure and may give the honourable member a hearing. But I cannot anticipate what the Conference will actually do. It is a matter for the Conference, and I cannot say what the Conference should do and what the Conference should not do.

Mr. LALIT CHANDRA DAS: If the Conference is in the nature of a Select Committee, shall we have the privilege of going through the decision of the Conference and give our final verdict in this House?

The Hon'ble Khwaja Sir NAZIMUDDIN: Normally, that would be the result, but in this particular case it is doubtful whether there will be time available for consideration of this in both the Houses. The mere giving of a verdict in one House is not enough. The thing will have to be dealt with in the same manner as in the case of a Bill;

and it will have to get the approval of both the Houses. It will have to be sent from one House to the other just as a Bill is sent, if there is disagreement between the two Houses. Then, the only alternative is a joint sitting. But there is no time for all this. Therefore, we have got to have a short-cut, namely, we will try to come to an agreement in that Conference and the——

Mr. LALIT CHANDRA DAS: Will the Hon'ble Home Minister consider another point? It is this that if in case of——

Mr. PRESIDENT: Order, order. The Hon'ble Home Minister is not in a position to give any assurance to the honourable member. Rule 12(5) of the Bengal Legislative (Joint Sittings and Communications) Rules reads as follows:—

"Subject to the provisions of these rules, the provisions of the Bengal Legislative Council Procedure Rules relating to the proceedings and report of a Select Committee shall, so far as may be, apply to a Joint Committee constituted under this rule."

I can only refer the honourable member to the rules. What will be the decision of the Conference, whether they will have any occasion to vary the procedure suited to the occasion: all this will be for the Conference to decide and no assurance given here will avail against the decision of the Conference. So, it is no use putting questions to the Hon'ble Home Minister.

Mr. LALIT CHANDRA DAS: I am not asking any question, Sir. I am just putting my view-point so that the Hon'ble Home Minister may have the opportunity of placing these views before the Conference for consideration.

Mr. PRESIDENT: The Home Minister may or may not even be a member of that Conference. How can he explain in advance on behalf of the Conference?

Mr. LALIT CHANDRA DAS: Then, is there nobody here to enlighten us as to whether even in the interest of prompt disposal of the matter, the rules in question cannot be referred to a joint sitting of both the Houses?

Mr. PRESIDENT: No, no. That cannot be.

Mr. LALIT CHANDRA DAS: Then, it will be a breach of our privileges, Sir.

The Hon'ble Khwaja Sir NAZIMUDDIN: May I now move the next resolution?

Mr. PRESIDENT: Let me put the first resolution moved by you to vote.

Mr. PRESIDENT: The question before the House is: that a Conference of members elected from both the Chambers be formed to consider the rules promulgated by Government under the Motor Vehicles Act and laid before this House under section 133 (3) of the said Act.

(The motion was agreed to.)

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to move that the following members be appointed members of the Joint Conference——

Mr. PRESIDENT: There should also be a request to the other House to agree to this amendment. Will you please move it adding that request to this motion?

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes, Sir. I beg to move that the Bengal Legislative Assembly be requested to nominate members to the Joint Conference——

Mr. NARESH NATH MOOKERJEE: That should be according to the rules.

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes, if there is a Joint Conference, it must consist of an equal number of members from both the Houses.

Sir, I further beg to move that the following members be appointed as members of the Joint Conference of this House:—

(1) Khan Bahadur Ataur Rahman,

(2) Khan Bahadur Naziruddin Ahmad,

(3) Khan Bahadur M. Shamsuzzoha,

(4) The Hon'ble Sir Bijoy Prasad Singh Roy,

(5) Mr. Ranajit Pal Chowdhury.

(6) Raja Bhupendra Narayan Sinha Bahadur, of Nashipur, and

(7) Mr. W. F. Scott-Kerr.

Point of Privilege.

Mr. LALIT CHANDRA DAS: On a point of privilege, Sir. According to the convention that is observed here, the various parties ought to be represented in conformity with certain ratios. Here, the Coalition Party has monopolised the majority of the names of the members composing the Joint Conference, whereas the Congress Group has been given only one seat. Perhaps, there is only one name mentioned. I object to this most strongly and appeal to you, Sir, for justice.

Mr. PRESIDENT: Is it possible to include another member from the Congress Party?

The Hon'ble Khwaja Sir NAZIMUDDIN: Then, it will be 8:8. Speaking for myself, I see no harm. We can make 8:8 if that will satisfy the Congress Group. Whom am I to include from the Congress Group?

Khan Bahadur NAZIRUDDIN AHMAD: Let it be Mr. Das.

(No objection from any member.)

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes, Sir, I shall include his name.

Mr. PRESIDENT: Resolution moved: that the Bengal Legislative Assembly be requested to agree to and nominate to the Joint Conference a like number as the Council and that the following members of this Council be appointed for the Joint Conference:—

(1) Khan Bahadur Ataur Rahman,

(2) Khan Bahadur Naziruddin Ahmad,

(3) Khan Bahadur M. Shamsuzzoha,

(4) Mr. Ranajit Pal Chowdhury,

(5) Mr. W. F. Scott-Kerr,

(6) Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,

(7) The Hon'ble Sir Bijoy Prasad Singh Roy, and

(8) Mr. Lalit Chandra Das.

Mr. PRESIDENT: The question before the House is: that the Bengal Legislative Assembly be requested to agree to the Joint Conference and the following eight members be appointed on behalf of the Bengal Legislative Council:—

(1) Khan Bahadur Ataur Rahman,

(2) Khan Bahadur Naziruddin Ahmad,

(3) Khan Bahadur M. Shamsuzzoha,

(4) Mr. Ranajit Pal Chowdhury,

(5) Mr. W. F. Scott-Kerr,

(6) Raja Bhujendra Narayan Sinha Bahadur, of Nashipur,

(7) The Hon'ble Sir Bijoy Prasad Singh Roy, and

(8) Mr. Lalit Chandra Das.

(The motion was agreed to.)

Khan Bahadur ATAUR RAHMAN: Sir Bijoy is not a member of this House. He is a member of the Lower House.

Khan Bahadur NAZIRUDDIN AHMAD: That is a serious flaw, ...

Mr. PRESIDENT: I find there is considerable substance in this contention. Sir Bijoy not being a member of this House, his name automatically goes out. So, there will be seven members only, and Sir Nazimuddin will see that seven members are elected from the other House.

The Bengal Jute Regulation Bill, 1940.

Mr. PRESIDENT: The House will now resume further consideration of the Bengal Jute Regulation Bill, 1940.

Mr. LALIT CHANDRA DAS: I beg to move: that in the Explanation at the end of sub-clause (5) of clause 3 of the Bill, after the word "expressed" in line 3, the words "in writing" be inserted.

Sir, in the Explanation the following occurs:—

"*Explanation.*—For the purposes of this sub-section the expression 'authorized agent' means a person employed, with authority expressed or implied, to represent before a recording officer a grower of jute or other person to whom a notice under sub-section (4) has been directed."

Mark you, Sir, the words are "authority expressed". How expressed? That is the point. Is it to be orally expressed? How can an authority be expressed by an absentee jute-grower? It must be made clear and so, Sir, I have suggested that the words "in writing" be added after the word "expressed". With these words, Sir, I commend my amendment to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that in the Explanation at the end of sub-clause (5) of clause 3 of the Bill, after the word "expressed" in line 3, the words "in writing" be inserted.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I rise to oppose this amendment.

Mr. LALIT CHANDRA DAS: As is usual.

Khan Bahadur NAZIRUDDIN AHMAD: Not as usual, Sir, but for very good reasons. If you introduce these words "in writing", they would eliminate a large class of illiterate people. Ninety-five per cent. of the population is illiterate. Till you give them free primary education, there ought not to be any such provision. That would take away all authority from illiterate persons.

Mr. LALIT CHANDRA DAS: Sir, have I got the right of reply?

Mr. PRESIDENT: I am sorry you have not.

The Hon'ble Mr. TAMIZUDDIN KHAN: I oppose this amendment, Sir. This amendment seems to be unnecessary as the words "implied authority" are there and they will serve the purpose. There is no need to try and put any further "stringency" on the manner of "authority expressed".

Mr. PRESIDENT: The question before the House is: that in the Explanation at the end of sub-clause (5) of clause 3 of the Bill, after the word "expressed" in line 3, the words "in writing" be inserted.

(The amendment was negatived.)

Mr. LALIT CHANDRA DAS: Sir, I beg to move: that in the Explanation to sub-clause (5) of clause 3 of the Bill, the words "or implied" appearing in line 3, be omitted.

Now, Sir, if my amendment is accepted and if the words "or implied" are omitted, then the Explanation would read as follows:—

"*Explanation.*—For the purposes of this sub-section the expression 'authorized agent' means a person employed, with authority expressed, to represent before a recording officer a grower of jute or other person to whom a notice under sub-section (*4*) has been directed".

My reason, Sir, why I want that the words "or implied" should be dropped is this. As every one knows perhaps, there are party factions in the mofussil, and it may be easy for any of the opposing parties to appear before the persons in authority, posing themselves as the authorised agents of their rivals and to misrepresent the whole fact regarding the latter. That way it would be leaving a great loophole for perjury and for doing injury to the persons whom the opposing party or parties have in view. Therefore, Sir, I say that the words "or implied" be dropped.

Mr. PRESIDENT: Amendment moved: that in the Explanation to sub-clause (*5*) of clause 3 of the Bill, the words "or implied" appearing in line 3, be omitted.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, on grounds of practical difficulty, even implied authority of the jute-grower has been made acceptable with a view to help the jute-grower, so that in every case he may not be required to produce his document of *Vakalat Nama* or *Muktear Nama* before the recording officer in any village. It would be absurd for an ignorant cultivator if he were to appoint an authorised agent to look after his interest or if he were compelled in every case to be present personally. On these grounds, I oppose the amendment.

Mr. NARESH NATH MOOKERJEE: I rise to support the amendment of my friend Mr. Lalit Chandra Das. The words "authority expressed" really mean that an illiterate person may come along with somebody who is in a position to file objection on his behalf and to point out to the authority any defect in recording, but if we add the words "or implied" it may lead to abuses. Anybody may come along and say that he is representing so and so and get something done which is not to the interest of the cultivator. While we are prepared to make it easy for the jute-grower, we ought not to put him to any trouble by allowing him to be represented by anybody whom he himself may not appoint. I think there will be cases of misrepresentation as a result of which the illiterate jute-growers will suffer. But we would like to hear what the Government have got to say in the matter.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, a similar amendment stands in my name but instead of moving it I am going to support the amendment moved by Mr. Lalit Chandra Das. Objection has been raised on the ground that it will be difficult for the jute-grower to give a written authority. I admit that in some cases there may be difficulty but the amendment does not suggest that written authority will be required, but on the other hand verbal authority will be accepted so that a man may come and say that so and so is my representative. That would be quite sufficient for the purpose. I feel that there would be some difficulty if instead of a written document authorising some person to represent him, a verbal authority is accepted. It is known to the House that party feeling prevails in the villages. There are persons who are interested in somebody while there are others who are interested in another. There is also individual enmity between one person and another. So, it will be easy for anybody to mislead the recording authority and do great mischief to another. It would lead to great complications and encourage enmity between one person and another. Under clause 3(5), it has been said that such notices will be sent and the grower can attend personally or by an authorised agent but if the words "or implied" remain, difficulty will be created. For the sake of the grower who is illiterate, it is desirable that the words "or implied" should be omitted. With these words, I support the amendment of Mr. Lalit Chandra Das.

Rai KESHAB CHANDRA BANERJEE Bahadur: I rise to support the amendment for the simple reason that the words "or implied" convey no meaning. It is rather surprising that the framers of this Bill have put in words which are likely to create confusion. False personation is not an uncommon phenomenon nowadays and if these words are retained, wrong persons may pose as the representatives of the grower. It is also my unpleasant experience that there are officers who sometimes take sides; in such cases difficulties will arise. In the circumstances, I think the words "or implied" should be omitted.

The Hon'ble Mr. TAMIZUDDIN KHAN: I am very sorry that I have to oppose this amendment. The reason for opposing this has already been given by my friend Khan Bahadur Saiyed Muazzamuddin Hosain: Those who have supported this amendment apprehend that cultivators may be defrauded by designing persons. On the other hand, we all know that about 90 per cent. of our cultivators are illiterate and if in every case an express authority is required, it may hamper business and put the cultivators to great difficulty. The apprehension that my friends entertain is not at all well-founded because those who make false personification run grave risk of getting serious punishment. The fear of such a punishment is a sufficient

deterrent. I refer to section 161 which says that whoever in any proceeding under this Act falsely personates another shall be punished with rigorous imprisonment for six months.

Mr. LALIT CHANDRA DAS: There is a provision in the Indian Penal Code also about it. After the offence if the offender is punished, what consolation is it to the man aggrieved?

The Hon'ble Mr. TAMIZUDDIN KHAN: The whole question is one of convenience or inconvenience. In spite of the precautions there may be cases of false personification. Think of the other side of the question. If you make it so rigorous that in every case express or written authority is necessary for a person who appears on behalf of a cultivator, how difficult it will be for him to represent his case. I think in this view of the case the amendment cannot be accepted. Nothing will prevent the cultivator from appearing personally if there is any apprehension of false personification. I do not think this amendment will improve matters; it will on the other hand be a definite impediment in the working of the Act.

Mr. PRESIDENT: The question before the House is: that in the Explanation to sub-clause (5) of clause 3 of the Bill, the words "or implied" appearing in line 3, be omitted.

A division being challenged, the House divided with the following result:—

AYES—12.

Banerjee, Rai Bahadur Keshab Chandra.
Bose, Rai Bahadur Manmatha Nath.
Das, Mr. Lalit Chandra.
Datta, Mr. Bankim Chandra.
Datta, Mr. Narendra Chandra.
Goswami, Mr. Kanai Lal.
Maitra, Rai Bahadur Brojendra Mohan.
Mookerjee, Mr. Naresh Nath.
Pal Choudhury, Mr. Ranajit.
Sarkar, Rai Sahib Indu Bhusan.
Sinha, Rai Bahadur Surendra Narayan.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.

NOES—22.

Ahmad, Khan Bahadur Naziruddin.
Ahmed, Mr. Mesbahuddin.
Chowdhury, Khan Sahib Abdul Hamid.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Khan Bahadur Rezzaqul Haider.
D'Rozario, Mrs. K.
Hosain, Khan Bahadur Saiyed Muazzamuddin.
Hossain, Mr. Latafat.
Hunter, Mr. H. C. A.
Karim, Khan Bahadur M. Abdul.
Khan, Khan Bahadur Muhammad Asaf.
Laidlaw, Mr. W. B. G.
Molla, Khan Sahib Subidali.
Momin, Begum Hamida.
Ormond, Mr. E. C.
Rahman, Khan Bahadur Ataur.
Rashid, Khan Bahadur Kazi Abdur.
Ray, Mr. Nagendra Narayan.
Roy, Rai Bahadur Radhica Bhusan.
Scott-Kerr, Mr. W. F.
Shamsuzzoha, Khan Bahadur M.
Singh Roy, Mr. Salleswar.

Mr. PRESIDENT: Order, order. The House has divided. The "Ayes" being 12 and the "Noes" 22, the amendment is negatived.

(After a pause.) The question before the House is: that clause 3 stand part of the Bill.

(The motion was agreed to.)

Clause 4.

Mr. PRESIDENT: Clause 4 stand part of the Bill.

(Amendments Nos. 56, 57 and 58 were not moved.)

Point of Privilege.

Mr. LALIT CHANDRA DAS: On a point of privilege, Sir.

So far the discussion on this Bill has been reduced almost to a farce because of the appeal that was made by the Hon'ble Minister in charge to the effect that it was an urgent measure and should therefore be expedited, meaning thereby that no due consideration should be given by this Council to the Bill. After this appeal of the Hon'ble Minister, we have seen amendments after amendments being withdrawn, although members of the Government Party, I mean the Coalition Party, after due deliberation sent in their carefully-worded amendments for the purpose of due consideration of the Bill and to make it re-shape. I submit, Sir, that the appeal which the Hon'ble Mr. Tamizuddin Khan made to the members of this House was a clear infringement of the privileges of this House inasmuch as it has induced many members not to move their amendments at all.

Khan Bahadur NAZIRUDDIN AHMAD: On this very point of privilege, Sir, I beg to submit that it is also the privilege of every member of this House to move any amendment or not, standing in his name.

Mr. LALIT CHANDRA DAS: But there was the appeal of the Hon'ble Mr. Tamizuddin Khan.

Mr. PRESIDENT: Order, order. An Hon'ble Minister has every right to make an appeal to the members of the House to expedite the passing of a Bill or any other measure. At the same time, the honourable members, too, have the option whether they will or will not move any of their amendments. So, there is no question of privilege being infringed.

Mr. PRESIDENT: Mr. Kamini Kumar Dutta.

Mr. NARESH NATH MOOKERJEE: Sir, may I have your permission to move this amendment, standing in the name of Mr. Dutta, myself and others, as Mr. Dutta is not here just now?

Mr. PRESIDENT: All right.

Mr. NARESH NATH MOOKERJEE: Sir, I beg to move that in sub-clause (*2*) of clause 4 of the Bill, after the words "make an objection" in lines 2 and 3, the words "free of cost" be inserted.

Sir, the object of my amendment really is to make the filing of objections free of any charge, namely, court-fee. Sir, as you know, these illiterate jute-growers are quite unused to any sort of legal technicalities or forms. As a matter of fact, this piece of legislation is sure to bring in a lot of hardship for them in its wake. And, Sir, over and above that, if they have got to pay court-fee or any other charge for filing objections, I think it will be adding extra burden on the already over-burdened jute-growers. In my opinion, Sir, the charge, if any, should be removed.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*2*) of clause 4 of the Bill, after the words "make an objection" in lines 2 and 3, the words "free of cost" be inserted.

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, this amendment has been moved through a misapprehension. There is no provision for the levy of any cost whatsoever, and in the absence of such a provision, no cost can be levied. Therefore, there is no necessity to insert the words "free of cost" in this clause at all. There is no provision for any such levy, and without any provision like that, I think, an astute lawyer like my honourable friend opposite can easily see that no fee can be levied.

Mr. LALIT CHANDRA DAS: Mr. President, Sir, I rise to support the amendment which has been moved by my friend, Mr. Naresh Nath Mookerjee. My friend wants to insert the words "free of cost" after the words "make an objection" in sub-clause 4 (*2*) of the Bill.

Now, Sir, I want to cite to the Hon'ble Minister a matter of recent occurrence. The flat tax of Rs. 30 has been imposed upon all payers of income-tax. Now, there is no provision, Sir, for the imposition of any court-fee when an extension of time is or will be prayed for. That, I believe, is also the case so far as the Income-tax Act is concerned. When a party is called upon to pay income-tax and if he has to ask for an extension of time for the payment of the tax, he applies to the Income-tax Officer free of cost, and his application is heard; but in

this particular case, although there is no provision in the Finance Act of 1939, so far as I am concerned I was informed by a letter addressed to me that my application for extension of time for payment could not be considered because it was made without any court-fee.

Now, Sir, we know also what happens in the case of Settlement proceedings. In Settlement proceedings—in the preparation of the record-of-rights—a certain court-fee is actually levied when objections are filed. So, when this matter under discussion will come up, several thousands of people in the mufassil will be involved, and therefore the matter should not be left so vague but should be made absolutely clear. Accordingly, by way of clarification, I submit that the words "free of cost" should be added after the words "make an objection" in lines 2 and 3 of sub-clause 4 (*2*). And this amendment, I submit, Sir, the Hon'ble Minister in charge of the Bill should have no objection to accept.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*2*) of clause 4 of the Bill, after the words "make an objection" in lines 2 and 3, the words "free of cost" be inserted.

A division being challenged, the House divided with the following result:—

AYES—10.

Banerjee, Rai Bahadur Keshab Chandra.
BosepRai Bahadur Manmatha Nath.
Das, Mr. Lalit Chandra.
Datta, Mr. Bankim Chandra.
Geswami, Mr. Kanai Lal.
Maitra, Rai Bahadur Brojendra Mohan.
Mookerjee, Mr. Naresh Nath.
Pal Choudhury, Mr. Ranajit.
Sarker, Rai Sahib Indu Bhusan.
Sinha, Rai Bahadur Surendra Narayan.

NOES—25.

Ahmad, Khan Bahadur Naziruddin.
Ahmed, Mr. Meebahuddin.
Baksh, Mr. Kader.
Barua, Dr. Arabinda.
Chowdhury, Khan Sahib Abdul Hamid.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Mr. Hamidul Huq.
Chowdhury, Khan Bahadur Rezzaqui Haider.
D'Rozario. Mrs, K.
Hossain, Khan Bahadur Saiyed Muazzamuddin.
Hossain, Mr, Latafat.
Hunter, Mr. H. C. A.
Karim, Khan Bahadur M. Abdul.
Khan, Khan Bahadur Muhammad Asaf.
Laidlaw, Mr. W. B. G.
Molla, Khan Sahib Subidali.
Momin, Begum Hamida.
Ormond, Mr. E. C.
Rahman, Khan Bahadur Ataur.
Rashid, Khan Bahadur Kazi Abdur.
Ray, Mr. Nagendra Narayan.
Roy, Rai Bahadur Radhica Bhusan.
Scott-Kerr. Mr. Mr. W. F.
Shamsuzzoha, Khan Bahadur M.
Singh Roy, Mr. Saileswar.

Mr. PRESIDENT: Order, order. The House has divided. The "Ayes" being 10 and the "Noes" 25, the amendment is negatived.

Mr. LALIT CHANDRA DAS: Sir, as an amendment similar to the present amendment (No. 63) was moved by me and negatived, I do not want to move the present one.

Mr. NARESH NATH MOOKERJEE: Sir, I do not know whether I shall be in order if I were to move this amendment, but if you permit me I shall do so.

(The Chair nodded assent.)

I wonder whether the Hon'ble Mr. Tamizuddin Khan will permit the insertion of the words "free of any charge". Sir, I would point out to the Hon'ble Minister that it is not a sin to accept an amendment from the Opposition, provided it is a good amendment.

Sir, I quite sympathize with the Hon'ble Minister in his feeling that it is necessary to expedite the passage of this Bill, but I am at the same time quite conscious of the fact that if there is any loophole or any defect in the Act which is likely to cause real hardship to the growers of jute, then the whole purpose of the present Bill would be defeated. I think that it is the interest of everybody here, particularly those who are interested in the welfare of the poorer class of people, to see that no hardship is caused even unwittingly to those whom they intend to benefit by a refusal not to insert these words.

Sir, I am renewing my appeal to the Treasury Benches and asking whether I could get my appeal heard?

Mr. PRESIDENT: Order, order. Mr. Mookerjee, appealing will not be allowed in that way. You can ask a particular question, or you may move your amendment.

Mr. NARESH NATH MOOKERJEE: All right, Sir, I shall move my amendment. I was simply appealing in the hope that better sense would prevail on them.

I beg to move that in sub-clause (2) of clause 4 of the Bill, after the word "may" in line 5, the words "free of any charge" be inserted.

The Hon'ble Mr. TAMIZUDDIN KHAN: I have already said, Sir, that no fees can be charged and I can assure my friend that no fees will be charged for the simple reason that the Government will have no authority to charge it. I think this assurance will satisfy my friend.

Mr. NARESH NATH MOOKERJEE: In view of the assurance given by the Hon'ble Minister I beg leave to withdraw my amendment.

Mr. PRESIDENT: Is it the pleasure of the House to permit Mr. Mookerjee to withdraw his amendment?

(The motion was then, by leave of the House, withdrawn.)

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: I beg to move that after sub-clause (*2*) of clause 4 of the Bill, the following new sub-clause be added, namely:—

"(*3*) The Collector on his own motion at any time and on the application of any grower of jute within a year of the disposal of objections under the preceding sub-section, may order correction of any entry in the record or incorporation of any new entry, if after such enquiry as he thinks fit, he is satisfied that the entry is incorrect or that the omission is unjustified and he may order revision of the record in accordance with such orders and may also order issue of fresh or revised licence to the jute-growers affected by the orders."

Sir, this is a very necessary amendment, because according to section 4 after the disposal of objections the record becomes final for ever and there is no provision for correction of even any apparent mistake or any apparent omission, which may be probably due to the absence of the jute-grower or probably due to the illiteracy of the jute-grower. Sir, I know of thousands of cases of mistakes in the course of Settlement proceedings the arrangements for which are much better and which are more closely supervised. Here, the supervision will not be as close as in the Settlement proceedings nor will this recording go through so many stages as the record of Settlement proceedings does. So, it is absolutely necessary that some safeguard must be provided, so that corrections of errors and omissions may be made within a year of the publication of the final record. I cite the cases of absentee people of Noakhali and Chittagong districts. There are thousands of people who go to work as *lascars* in ocean-going vessels. They have probably left behind some womenfolk and children to look after their affairs at home. These people after returning home will probably find that their lands which were actually under jute have not been at all recorded, because they had only womenfolk and children to look after their affairs. It will be an absurd thing if there is no provision for the correction of records at all. There are other cases also. There are widows and orphans in the villages who have let their lands to be cultivated by *bargadars* and those *bargadars* have not taken care to have the lands recorded properly and if they are debarred from having their grievances redressed, it will be a great hardship to them.

Rai KESHAB CHANDRA BANERJEE Bahadur: They are very small in number.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Do you want that these few people also should be shut out for ever from getting their records corrected?

There is difference in the income between a jute land and a paddy land. The annual income of a jute land is about Rs. 100 or, say, Rs. 96 per acre whereas the income from paddy land is only Rs. 36 per acre. The difference is about Rs. 60. For a poor cultivator this is an enormous amount. So, I say if these grievances are left unredressed, it will cause great hardship to the poor cultivators. A provision of this kind is found in all Acts and even in the Settlement proceedings which go on for two years and pass through several stages. There are similar provisions under sections 106 and 108A. There is a further redress that a civil suit can be instituted within six years of the final publication for the correction of any mistake in the record of rights. Here, there is no provision at all for the correction of records once it is made final. So, I think this amendment is absolutely necessary in the interests of justice and I move this for the consideration of the House.

Mr. PRESIDENT: Amendment moved: that after sub-clause (2) of clause 4 of the Bill, the following new sub-clause be added, namely:—

"(3) The Collector on his own motion at any time and on the application of any grower of jute within a year of the disposal of objections under the preceding sub-section, may order correction of any entry in the record or incorporation of any new entry, if after such enquiry as he thinks fit, he is satisfied that the entry is incorrect or that the omission is unjustified and he may order revision of the record in accordance with such orders and may also order issue of fresh or revised licence to the jute-growers affected by the orders."

Mr. E. C. ORMOND: Sir, the logic of the honourable mover of this amendment is cogent. Subject to what the Hon'ble Minister says by way of any reason for attacking that logic we would be in favour of some such improvement of this Bill. The position is thus reduced to this: whether the Government prefer to improve this Bill as far as possible at the present opportunity or whether they, for their own reasons which may be good, are so set on having this Bill passed now quickly that they will oppose even beneficial amendments. If they are set on the Bill being now passed quickly, there is one way out of the matter which I would respectfully submit for the consideration of the Hon'ble Minister—let him take a note of this amendment and give it careful consideration and at the earliest possible moment embody such improvements as these. Subject to what the Hon'ble Minister may say, the reason for this amendment appears to be extremely sound and even necessary. I am informed that as far as that part of the population which go to the sea, which consist of *lascars* or their relatives, is concerned, the observations of the honourable mover are entirely borne

out by the experience of the members of this group. With these remarks, I leave the matter and await the reply of the Hon'ble Minister.

Rai Sahib INDU BHUSAN SARKER: I rise to support the motion moved by my friend Khan Bahadur Saiyed Muazzamuddin Hosain. The reason is that in clause 4(2) it is laid down that the disposal of objections will be final. If that is final, then after that no steps can be taken to revise the incorrect statements or omissions or things like that, because there is no such provision in the Bill. My friend Khan Bahadur Muazzamuddin Hosain by this sub-section seeks to provide that it will be open for any person to make objections within a year of the disposal of objections. In support of this amendment, I should like to say that there are some *bargadars* who will not care very much for the entry of their lands and who may not even care to apply for the correction of any wrong entries. Then, Sir, there are widows and minors. If they find within a year that their lands have not been properly recorded, then they can apply to the Collector for necessary correction, but for want of a provision like this they may have to suffer not through their own fault but through the fault of the *bargadars*. So, this provision is absolutely necessary in order to safeguard the interests of the widows and minors and other illiterate persons. Besides, there are many other people who do not live in their homes and if they find on returning to their homes that their lands have been incorrectly recorded, they will not get an opportunity to have their grieyances redressed. So, from that point of view also it is absolutely necessary to incorporate this sub-section in the Bill.

Mr. KADER BAKSH: I would like to support the amendment which has been moved by my honourable friend Khan Bahadur Muazzamuddin Hosain. The amendment is not only desirable but it is necessary. I know of instances where during the Settlement operations in the Dinajpur district several minors and widows have been very badly let down by some shrewd *adhiars* and *bargadars*. It is only to safeguard the interests of such minors and widows that an amendment like this should be placed in the Bill. If it be not possible, however, to admit such an amendment now, as in that case there will be delay in passing the Bill, I request the Hon'ble Minister to give us an assurance that such a provision as will remove the defects of the present Bill will be made very soon after the Bill has been passed.

Khan Bahadur NAZIRUDDIN AHMAD: I rise to support the suggestion of Mr. Ormond. (Mr. LALIT CHANDRA DAS: You cannot support a suggestion but support an amendment.) I think, Sir, I can support a suggestion made on the floor of the House. If, for practical reasons, Government think that this Bill should be passed very quickly, this amendment, which has my full sympathy, should be carefully

considered by them and an amending Bill be brought at the next session. This is a very helpful and a practical suggestion. I should suggest that many amendments which have been tabled by us, and which are not being moved, should also be carefully considered before the amending Bill is brought at the next session. This is the only practical way out of it. Many suggestions of ours, on account of our inability to move the amendments which have been tabled by us, could not now be considered. The House should not only be anxious to pass necessary amendments but should rise to the height of every occasion and actually make them when they really are necessary. When the opposite conduct is necessitated by superior practical considerations, this House should equally rise to the height of the occasion and refrain from making amendments. There is often dignity in forbearance. Practical good should be the test on every such occasion. The welfare of the people and the interest of draftsmanship must be considered side by side. The welfare of the people should be the supreme consideration and the improvement of draftsmanship should come second. So, in these circumstances, we decline, to move many of the amendments of which we had given notice in order to facilitate the passage of the Bill. And with this end in view, I support the suggestion made by Mr. Ormond.

Mr. LALIT CHANDRA DAS: Yes, the European Group is the keeper of your conscience!

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I do not want my friend Mr. Lalit Chandra Das to be my legal adviser. (Laughter.) I would suggest to the Hon'ble Minister that he should give a definite assurance in this House that all our amendments which have been tabled but not moved should be carefully considered by his department and that an amending Bill would be brought in at the next session to make formal improvements in the Act.

Mr. NARESH NATH MOOKERJEE: Sir, I rise to support this amendment. I quite realize that Government should in the interest of the jute-growers hasten the passing of this measure into law, as the work of recording has to be done immediately. But, Sir, I am afraid that we have been rushing the various clauses of the Bill through too fast, as is evident from the debate that has taken place. Further, it seems that all sections of this House are of the opinion that a provision of this kind should be incorporated in the Act. I think, Sir, that Government should give some consideration to this matter. After all, Sir, this piece of legislation is likely to affect a class of people who are not used to these forms and technicalities. And, Sir, I am afraid that if this amendment is not incorporated in the statute-book, the hardship that will befall the poor jute-growers in the standard year will be tremendous. After all, Sir, there are many people in the mufassil—

why many, most of the people in the mufassil—who may not get notice of the thing at all. They may not go and record their holdings in time, and, Sir, it will then be impossible afterwards to correct or amend the record in time. I think that if this clause is not amended or if this amendment is not incorporated in the Act, great hardship will be caused to the poor people. After all, it is a matter of form. The Assembly is in session and Government can go to the Assembly one day and by special permission of the Speaker do away with the usual notice and other formalities and get this introduced. I do not think that it is necessary to wait for any Amending Bill, which may not be introduced or passed till next year. I think, Sir, that for this very reason, if for no other consideration, the Hon'ble Minister in charge will see his way to accept this.

Rai KESHAB CHANDRA BANERJEE Bahadur: Mr. President, Sir, I rise to support the amendment moved by my esteemed friend Khan Bahadur Saiyed Muazzamuddin Hosain. I have carefully thought over the principle underlying the amendment and I feel that an absentee, or for the matter of that anybody, who has had his land incorrectly recorded, should get an opportunity for revision. This Bill is of a far-reaching character. It is a very important one so far as the jute-growers are concerned. It is regretted that many of the useful amendments have either been withdrawn or not been moved at all. In any case, such persons who are likely to be affected by a hurried and incorrect entry should be given an opportunity to place their case before the revising authority. Sub-clause (2) of clause 4 says: "Within such period, in such manner and to such authority as may be prescribed.....," and so on and so forth. It is not understood what sort of an officer will be entrusted with this duty. He will certainly be subordinate to the Collector of the district and will be lower in rank to him and as such he may not be as much responsible as the Collector himself. So, it is not unlikely that he will make mistakes. There may be omissions which should be rectified in the interests of jute-growers.

Apart from the question of lascars and absentee tenants, even the lands of those who were present might be improperly or incorrectly recorded. I submit, Sir, that even such mistakes should also be corrected in the interest of all concerned.

I know, Sir, that there are lands on which jute is usually grown, but sometimes paddy is also grown there; these change-overs may give rise to mistakes in recording. So, in order to rectify mistakes in such cases, appeal to a higher authority should be provided for.

Sir, Khan Bahadur Saiyed Muazzamuddin Hosain was an experienced Revenue officer and we regard him as an acknowledged authority on revenue matters. Everybody, including the Khan Bahadur, knows very well that during Settlement operations there are several stages which

have to be gone through for the correction of records. For example, sections 105 and 106 are frequently resorted to and after that there is the civil court for purposes of correction of mistakes which might creep in in the preparation of the record-of-rights.

So, Sir, I think that this amendment is a very sound one and I trust that Government will see its way to accept it.

Mr. LALIT CHANDRA DAS: Sir, what I mean to say is this. A suggestion has already been made to the Hon'ble Minister and the Hon'ble Minister has heard what the views of this House are, as those views have been expressed by different members from almost all sides of this House. After that I feel certain that he will have no other alternative but to fall back upon the suggestion. The Hon'ble Minister will have to give an assurance that an amending Bill will be brought in and is under contemplation or something of that sort, for no other purpose but to ease our conscience. All that seems to me is that this is a matter not for an amending Bill or anything of that kind. This matter is a very simple one. We are in March and everything can be finished in March. Further, the Assembly is in session and I am quite sure that the Bill can be amended incorporating the necessary suggestions. Then, it should be the bounden duty of the Hon'ble Minister to go to the House of which he is a member and to get it passed there as expeditiously as possible, but not merely to make the point of expedition and urgency of the measure under consideration a ground here in this House to stifle all amendments and all objections.

Now, Sir, I know the honourable member who has moved this amendment was an experienced Revenue officer and he has made the suggestion which, if carried, will no doubt redound to the good of the entire peasantry of Bengal. Now, we also know that there are several members in this House as well as in the Lower House who are owners of lots of jute lands which have actually been given to the *bargadars*. Many of the owners live in towns and the *bargadars* being *bargadars*, will not take that amount of interest as the owners of the land will, in getting a correct record of the lands on which jute was or has been grown. Under these circumstances, I do think that the amendment is a very necessary provision and the assurance that an amending Bill will be forthcoming should not ease our conscience. So, I support the amendment and commend that it be carried through.

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, I have considered this amendment very carefully. In spite of the fact that there are various difficulties and apprehensions, the principle of this amendment is acceptable to Government. Sir, the difficulty that is apprehended is this. The application will be made to the Collector within a year of the disposal of objections. So, it may be made six months after the harvest or even immediately after that. There will be no jute

whatsoever on the ground at that time. Sir, this record will be a record of certain facts—particularly the fact whether there was jute on a particular plot of land or not. Therefore, after the lapse of a few months, when there will be no jute, it will be very difficult for the Collector to come to a correct conclusion as to whether there was jute grown on the land or any other crop at the time concerned. (Cries of "Why, why" from the Opposition Benches.) Therefore, if there are frivolous objections, I think in almost every case the Collector will be bound to allow those objections. That is one difficulty, but in spite of this difficulty, I admit, that there should be some safety valve. There are cases in which through mistake records may not be made of the lands on which there was actually jute. Therefore, I have already stated that the principle involved in this amendment is acceptable to us. But under the circumstances now prevailing, when we are very much hard pressed for time, it becomes impossible. Because, unless we can immediately begin the operations of making the record, Sir, everything may end in a failure. Therefore, I am rather disposed to accept the suggestion of my honourable friend Mr. Ormond to let this Bill be passed as it is—as quickly as possible—on the assurance that an amending Bill be brought at an early date. Sir, that will be a short Bill with only a few clauses, say, two or three clauses. Therefore, the time necessary for passing a Bill like that will also be short. That Bill may be brought in at the next session, say, in the Monsoon session, and also, Sir, that will not affect the situation adversely so far as the coming preparation of the record is concerned. Objections will not be disposed of till, say, August or September. Therefore, if an amending Bill is passed in the Monsoon session, those who are aggrieved will be in time to file their objections to the Collector for rectifying their records. In this view, Sir, I propose to bring in an amending Bill incorporating the principle of this amendment at the earliest opportunity, namely, at the next Monsoon session of the Legislature, and I think that, in view of the urgency of the matter, my honourable friend, the mover, will be pleased to withdraw his amendment.

Rai KESHAB CHANDRA BANERJEE Bahadur: On a point of information, Sir. Are we to understand that in the next session of the Council all the amendments which have been tabled now by non-official members, at least the principle underlying these amendments, will be incorporated in this amending Bill?

The Hon'ble Mr. TAMIZUDDIN KHAN: I think, Sir, that is an absurd suggestion. Of course, an attempt will be made to incorporate the suggestions embodied in the amendments which we find to be useful; but if the honourable member says that all the amendments should be incorporated in an amending Bill, I wonder what sort of an amending Bill it would be.

Mr. NARESH NATH MOOKERJEE: What then does the Government propose to do to avoid the difficulty that will arise in the first year's working of this piece of legislation? After all, an amending Bill may be introduced later on and by that time the growers of jute might have become used to this Act and so an amending Bill might not become necessary at all. It is to overcome the first year's difficulty that we are pressing for some solution.

The Hon'ble Mr. TAMIZUDDIN KHAN: I have already explained that. My friend was not all attention perhaps to what I said. This amendment contemplates that objections will be made to the Collector within a year after the disposal of the objections referred to in the previous clause. As I have already stated, that those objections will be disposed of at the earliest in August or September next. Before that these objections will not be disposed of. Let me repeat that even if the amending Bill is passed in the next Monsoon session, those who are aggrieved will be just in time to put in their applications before the Collector. Therefore, even in the first year there will be no difficulty for the cultivators whose lands will not at all be recorded.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, one thing puzzles me personally and it is this. I cannot exactly follow what the Hon'ble Minister intends to say.

He has pointed out that if the amendment is accepted, it will give rise to immense difficulties, because there will be no jute when the recording will take place. If an amending Bill is introduced in the Monsoon session, in all probability it will come up for consideration in July or August, and certainly some time will be required for the two Houses to consider the Bill. Then His Excellency's assent will have to be obtained, and this can never be done before the jute season is over. If any person prefers an appeal before the Collector according to the terms of this amendment, how will the Collector be able to ascertain on which land the jute was grown and on which it was not, as there will be no jute on the land by the time the enquiry is made.

(Khan Bahadur Saiyed Muazzamuddin Hosain rose in his seat.)

Mr. PRESIDENT: Do you like to ask for the withdrawal of this motion?

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: In view of the definite undertaking given by the Hon'ble Minister that an amending Bill will be brought before the House at the next Monsoon session incorporating the principle of my amendment, I would beg leave of the House to withdraw my amendment.

Mr. PRESIDENT: Is it the pleasure of the House to permit the mover to withdraw his amendment?

Mr. LALIT CHANDRA DAS: No, Sir.

Mr. PRESIDENT: The question before the House is: that after sub-clause (*2*) of clause 4 of the Bill, the following new sub-clause be added, namely:—

"(*3*) The Collector on his own motion at any time and on the application of any grower of jute within a year of the disposal of objections under the preceding sub-section, may order correction of any entry in the record or incorporation of any new entry, if after such enquiry as he thinks fit, he is satisfied that the entry in incorrect or that the omission is unjustified and he may order revision of the record in accordance with such orders and may also order issue of fresh or revised licence to the jute-growers affected by the orders."

A division being challenged, the House divided with the following result:—

AYES -9.

Banerjee, Rai Bahadur Keshab Chandra.
Das, Mr. Lalit Chandra.
Goswami, Mr. Kanai Lal.
Ibrahim, Khan Bahadur Maulvi Mohammad.
Maitra, Rai Bahadur Brojendra Mohan.
Mookerjee, Mr. Naresh Nath.
Sarker, Rai Sahib Indu Bhusan.
Singh Roy, Mr. Saileswar.
Sinha, Rai Bahadur Surendra Narayan.

NOES—24.

Ahmad, Khan Bahadur Naziruddin.
Ahmed, Mr. Mesbahuddin.
Baksh, Mr. Kader.
Barua, Dr. Arabinda.
Chowdhury, Khan Sahib Abdul Hamid.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Mr. Hamidul Huq.
Chowdhury, Khan Bahadur Rezzaqul Haider.
D'Rozario. Mrs. K.
Hosain, Khan Bahadur Saiyed Muazzamuddin.
Hossain, Mr. Latafat.
Hunter, Mr. H. C. A.
Karim, Khan Bahadur M. Abdul.
Khan, Khan Bahadur Muhhammad Asaf.
Laidlaw, Mr. W. B. G.
Molla, Khan Sahib Subidali.
Momin, Begum Hamida.
Ormond, Mr. E. C.
Rahman, Khan Bahadur Ataur.
Rashid, Khan Bahadur Kazi Abdur.
Ray, Mr. Nagendra Narayan.
Roy, Rai Bahadur Radhica Bhusan.
Scott-Kerr, Mr. W. F.
Shamsuzzoha, Khan Bahadur M.

Mr. PRESIDENT: Order, order. The House has divided. The "Ayes" being 9 and the "Noes" 24, the amendment is negatived.

(Both Rai Keshab Chandra Banerjee Bahadur and Mr. Lalit Chandra Das rose in their seats.)

Mr. PRESIDENT: Rai Keshab Chandra Banerjee Bahadur.

Rai KESHAB CHANDRA BANERJEE Bahadur: On a point of order, Sir. It appears that the mover of the amendment Khan

Bahadur Saiyed Muazzamuddin Hosain has voted against his own amendment, leave having been denied by the House to withdraw the motion. My point is whether the honourable member is in order to vote against his own amendment?

Mr. PRESIDENT: What is your point, Mr. Das?

Mr. LALIT CHANDRA DAS: My point is also the same, viz., whether he can vote against his own amendment.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: In view of the undertaking given by the Hon'ble Minister, I was quite in order to vote against the amendment.

Mr. PRESIDENT: I hold that the honourable member was in order. When he wanted the leave of the House to withdraw his amendment and it was rejected, he was in order even to vote against his own amendment.

Khan Bahadur ATAUR RAHMAN: I think, Sir, the objection is out of order.

Mr. PRESIDENT: The question before the House is: that clause 4 stand part of the Bill.

(The motion was agreed to.)

Clause 5.

Mr. PRESIDENT: Clause 5 stand part of the Bill.

Mr. LALIT CHANDRA DAS: I beg to move that in the proviso to sub-clause (*1*) of clause 5 of the Bill for the words "the Provincial Government" in line 1, the words "the District Judge in whose jurisdiction the land so recorded is situate or any judicial officer authorized by him on his behalf" be substituted.

Sir, I want to read that proviso in order to explain how it will read if my amendment is accepted.

The proviso reads thus:—"Provided that the Provincial Government may, in any year subsequent to that in respect of which the final record is prepared, direct that any correction so made in the final record in respect of an application made under sub-section (*2*) of section 4 shall, in the prescribed manner, be examined and, if necessary, be revised."

It will be seen, Sir, that power is taken by the Provincial Government for giving final direction with respect to the corrections in the final records. What I would like to say is that this function is not the normal function of the Provincial Government and should not be exercised by the Provincial Government. It is more or less a matter decision on which should be taken by the judicial officers, because it concerns the correction of decisions which were arrived at by the recording officer. Under the circumstances, I think that the proper authority should be the highest judicial authority of the district. Even in the Settlement proceedings we find that under section 110 of the Bengal Tenancy Act, the final authority to make correction of the records has been given to the District Judge. The Provincial Government work through their different branches of the Executive and the Judiciary and in this case it is not the normal duty of the executive officers. I should say that it should not be made the normal function of the Provincial Government to direct that such and such corrections will be made in the records-of-rights.

This work should be delegated to the District Judge in whose jurisdiction the lands so recorded are situate or any judicial officer authorized by the District Judge on his behalf. With these few words, Sir, I beg to commend my amendment to the acceptance of the House. May I in this connection, Sir, also move the next amendment which is connected with this?

Mr. PRESIDENT: Yes, Mr. Das.

Mr. LALIT CHANDRA DAS: Sir, I beg to move: that in the proviso to sub-clause (*1*) of clause 5 of the Bill, after the word "direct" appearing in line 3, the words "on the application of the grower of jute or any person" be inserted.

Now, Sir, it is necessary that some provision should be made as to who should move the District Judge. It is for this purpose, Sir, that I desire the insertion of the words "on the application of the grower of jute or any person" after the word "direct" If this is done, Sir, the whole proviso, as amended, would read thus:

"Provided that the District Judge in whose jurisdiction the land so recorded is situate or any judicial officer authorized by him on his behalf may, in any year subsequent to that in respect of which the final record is prepared, direct on the application of the grower of jute or any person that any correction so made in the final record in respect of an application made under sub-section (*2*) of section 4 shall, in the prescribed manner, be examined and, if necessary, be revised."

With these words, Sir, I commend my amendments Nos. 77 and 78 to the acceptance of the House.

Mr. PRESIDENT: Amendments moved: that in the proviso to sub-clause (*1*) of clause 5 of the Bill for the words "the Provincial Government" in line 1, the words "the District Judge in whose jurisdiction the land so recorded is situate or any judicial officer authorized by him on his behalf" be substituted, and

that in the proviso to sub-clause (*1*) of clause 5 of the Bill, after the word "direct" appearing in line 3, the words "on the application of the grower of jute or any person" be inserted.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I beg to oppose this motion as I think the honourable the mover of this amendment has not really understood the import of this proviso. Sir, this proviso only authorizes Government to order that the corrections made under section 4 in view of the objections filed and applications made under section 3(*3*) might be checked in any subsequent year and if found incorrect, discarded.

Mr. LALIT CHANDRA DAS: Checked by whom?

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Checked by the recording officers, the revenue officers of Government. These objections would be decided after the jute has been removed from the land in the previous year and so in any subsequent year if Government thinks that it is necessary that these objections and these applications under section 3(*3*) should be checked again, they may do so. It is the Government that will order the checking of the correctness of the objections or applications. So, the question of District Judge does not at all come in here. It is not a judicial proceeding either. I think that the amendment is altogether out of place and so I oppose it.

Khan Bahadur M. SHAMSUZZOHA: Mr. President, Sir, there has been a fundamental misunderstanding of the whole situation by my friend Mr. Lalit Chandra Das. This proviso contemplates cases as provided for in sub-sections (*2*) and (*3*) of section 3. These sub-sections are to meet special circumstances, which should be taken cognisance of and considered by the special authority as constituted under section 4(*2*). These are the two cases, Sir. One is the case of a person who did not in the standard year grow any jute at all. With regard to any application to be made by him, enquiry will be made with respect to any land on which he grew jute in any one of the three years immediately preceding the year specified in the notification. That is one case. Another case which has been dealt with is with respect to those lands exclusively growing jute. Any person who claims such special lands will have the right to move by application. With reference to these two cases there will be enquiries under section 4(*2*).

There would be a special authority for that purpose and that special authority will deal with those cases. After the disposal of these special cases, corrections, if ordered, will be made in the record prepared under section 3(*1*). So, it is not a case where revision can be made or re-examination can be made of the record as a whole. Revision or re-examination is allowable only with regard to those two special cases. So, in these peculiar cases it is but proper and expedient that these should be looked into and decided by special officers, namely, executive officers, and not by judicial officers. As a matter of fact judicial officers will be landed in very great difficulty in disposing of these cases if they are invested with such powers. The scope of the enquiry of these special authorities will necessarily be quite different from what obtains in the civil courts. So, Government keeping that end in view has only made this proviso on sound principles and I hope my friend will not press this amendment. That he has misunderstood the scope of the whole Bill is apparent from the fact that he says that the application, as proposed by him, will be made by the grower of jute or any person. How can this be? It cannot be by "any person." It can be made only by those persons who will be affected by this order, i.e., by those who did not grow jute in the standard year and those persons whose lands only grew jute and no other crop.

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, my friends Khan Bahadur Saiyed Muazzamuddin Hosain and Khan Bahadur Shamsuzzoha have clearly explained the situation. I think this amendment has been tabled through misapprehension. I would only refer to one example. This revision will principally be directed to those cases in which lands have been recorded as lands on which nothing but jute can be grown. There are certain lands on which jute cannot be grown at a certain time because they are low and otherwise unfit for jute cultivation, but later on jute can be grown on those very lands when they are considered fit, and Government will order revision in those cases. In such cases, the cultivators themselves are the interested people and they will therefore never apply to the District Judge or to any other officer. Therefore, if my friend's amendment is accepted, the whole purpose of the Bill will be frustrated. The District Judge does not come into the picture at all. Therefore, my friend will be well advised to withdraw his amendment.

Mr. LALIT CHANDRA DAS: Sir, after what has fallen from the Hon'ble Minister I feel that I cannot but agree with his views and would like to withdraw my amendments.

Mr. PRESIDENT: Is it the desire of the House to permit Mr. Das to withdraw his amendments? (Cries of "yes, yes.")

(The amendments were then, by leave of the House, withdrawn.)

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that in sub-clause (*1*) of clause 5 of the Bill, for the words "in that year" appearing in line 9, the words "or in the previous years" be substituted.

My only object is to remove an anomaly because in clause 3(*1*) it has been stated "* * * * lands on which jute was grown by any grower of jute in such year as may be specified in the notification * *". So, if on one year's examination of the growth of jute the record is made final, I am sure, there may be some injustice caused to some. So I have proposed to add the words "or in the previous years."

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 5 of the Bill, for the words "in that year" appearing in line 9, the words "or in the previous years" be substituted.

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, I oppose the amendment.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) of clause 5 of the Bill, for the words "in that year" appearing in line 9, the words "or in the previous years" be substituted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 5 stand part of the Bill.

(The motion was agreed to.)

Mr. PRESIDENT: The Council stands adjourned till 2-15 p.m. on Wednesday, the 27th March.

Adjournment.

The Council then adjourned till 2-15 p.m. on Wednesday, the 27th March, 1940.

Members absent.

The following members were absent from the meeting held on the 20th March, 1940:—

(1) Mr. Nur Ahmed.
(2) Mr. Shrish Chandra Chakraverti.
(3) Mr. Humayun Reza Chowdhury.
(4) Mr. D. J. Cohen.
(5) Mr. Kamini Kumar Dutta.
(6) Khan Bahadur S. Fazal Ellahi.
(7) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(8) Nawabzada Kamruddin Haider.
(9) Mr. Mohamed Hossain.
(10) Khan Bahadur Syed Muhammad Ghaziul Huq.
(11) Alhaj Khan Bahadur Shaikh Muhammad Jan.
(12) Mr. Humayun Kabir.
(13) Maulana Muhammad Akram Khan.
(14) Mr. H. G. G. MacKay.
(15) Dr. Radha Kumud Mookerji.
(16) Rai Bahadur Satis Chandra Mukharji.
(17) Mr. H. P. Poddar.
(18) Khan Bahadur Mukhlesur Rahaman.
(19) Mr. J. B. Ross.
(20) Mr. K. C. Roy Chowdhury.
(21) Mr. Sachindra Narayan Sanyal.
(22) Rai Sahib Jatindra Mohan Sen.

B. G. Press—1940-41—1446A—750.

BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Buildings, Calcutta, on Wednesday, the 27th March, 1940, at 2-15 p.m. being the fifteenth day of the First Session, pursuant to section 62(2)(a) of the Government of India Act, 1935.

Mr. President (the Hon'ble MR. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

The Bengal Sanskrit Association.

70. Rai Bahadur BROJENDRA MOHAN MAITRA: Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(a) the name of the Principal of the Sanskrit College, Calcutta;

(b) the date of his appointment to that post;

(c) the salary and allowances, if any, he is drawing at present;

(d) the date of his retirement from Government service;

(e) whether the post is transferable;

(f) what is the normal period after which the transfer of a Principal of a Government College generally takes place;

(g) if his transfer under the Government rules is overdue;

(h) if so, why he is still being retained in charge of the Sanskrit College;

(i) whether he is the *ex-officio* Secretary of the Bengal Sanskrit Association;

(j) whether it is a fact that the dual function of Principal and Secretary of two important institutions prevents him from doing justice to his work;

(k) whether there have been any complaints of mal-administration and nepotism against him in regard to the affairs of the Bengal Sanskrit Association;

(l) whether such repeated complaints, if any, led to the appointment by Government of a Committee of Enquiry in December, 1936, and whether the evidence recorded by the

Committee was conclusive and the majority of the witnesses examined urged separation of the two offices of Principal of the Sanskrit College and Secretary of the Bengal Sanskrit Association as the only means to end the present unsatisfactory state of things;

(*m*) what is the constitution of the Bengal Sanskrit Association;

(*n*) the total number of members of the Central Organisation of the Association and the system of representation thereon;

(*o*) the number of members of the Council of the Association;

(*p*) how many members are elected and how many appointed by Government to the Association and to the Council;

(*q*) what are the terms of office of the members of the Central Organisation and of the Council;

(*r*) whether it is a fact that one of the Hon'ble Ministers has been appointed by the Government to be a member of the Bengal Sanskrit Association and of its Council; and

(*s*) on what principle is a member of the Cabinet nominated to this democratic body in preference to an outsider, a patron of Sanskrit learning?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): Steps have been taken for the preparation of the reply which, I regret to say, is not yet ready.

Mr. LALIT CHANDRA DAS: When was the question put and when were steps taken for the preparation of the reply?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): This is an *ad interim* reply, but it is within the time-limit within which the Minister in charge must submit such a reply before this House. It is not a very long time, I am sure.

Mr. LALIT CHANDRA DAS: Is it within this session that the answer will be given?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): Very likely so, Sir.

The Harananda Shah Road.

71. Khan Sahib ABDUL HAMID CHOWDHURY (on behalf of Mr. K. C. Roy Chowdhury): (*a*) Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state if it is a fact that there is a road known as the Harananda Saha Road, about 8 miles long, running from Jagatballavpur (Howrah-Amta Light Railway, district Howrah), to the river Damodar at Singhati, in the district of Hooghly?

(*b*) Is it a fact that this road is a very important portion of the shortest direct route connecting Calcutta with a vast area comprising a large number of villages on both sides of the river Damodar in Jangipara police-station, Khanakul police-station and Pursura police-station in Hooghly District and Amta police-station in Howrah District?

(*c*) Is it a fact that about 7 miles of road are maintained by the Hooghly District Board?

(*d*) Is it a fact that this road is indispensable for the communications between Calcutta and those villages lying in the interior parts of the districts of both Hooghly and Howrah?

(*e*) Is it a fact that every year thousands of carts from and to Calcutta carrying imports and exports of those villages pass through this road?

(*f*) Is it a fact that for want of proper maintenance by the authorities many culverts and bridges on the road have been completely destroyed and many portions have become lower than the level of the fields on both sides of the road?

(*g*) Is it a fact that for a period of about 7 months of the year many portions of the road remain submerged under knee-deep water and that traffic and communications along this road are totally stopped?

(*h*) Is it a fact that the above-mentioned villages suffer great inconvenience during this period on account of the stoppage of the traffic and communications along the road?

(*i*) If answers to paragraphs (*a*) to (*h*) be in the affirmative, will the Hon'ble Minister be pleased to state what action, if any, has been taken in this matter? If not, why not?

MINISTER in charge of the PUBLIC HEALTH and LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): Steps have been taken for the collection of the information which is not yet available.

Realisation of money decreed by Workmen's Compensation Court.

72. Khan Sahib ABDUL HAMID CHOWDHURY (on behalf of Mr. K. C. Roy Chowdhury): (*a*) Is the Hon'ble Minister in charge of the Commerce and Labour Department aware that since the enforcement of the Payment of Wages Act, from the 1st April, 1937, in many cases money decreed by Workmen's Compensation Court has not been realised in full? If so, what is the reason thereof?

(*b*) Will the Hon'ble Minister please state—

(*i*) how many cases under the Payment of Wages Act were instituted in Workmen's Compensation Court in 1937, 1938 and 1939;

(*ii*) in how many cases money has been decreed;

(*iii*) in how many cases money has not been realised; and

(*iv*) what steps have been taken or is intended to be taken by the Government to realise the unrealised money?

MINISTER in charge of the COMMERCE and LABOUR DEPARTMENT (the Hon'ble Mr. H. S. Suhrawardy): (*a*) In a number of cases the amounts of wages decreed by the authority could not be recovered for one or other of the following reasons:—

(1) The employers concerned had no assets.

(2) The employers became untraceable and consequently Distress Warrants could not be executed by the Magistrates.

(3) The properties of the employers were found to be in possession of mortgagees or Receivers or Liquidators.

(4) The employers were adjudicated insolvents.

		1937.	1938.	1939.
(*b*)	(*i*)	146	752	429
	(*ii*)	126	628	257
	(*iii*)	9	39	12

(*iv*) The matter is already receiving Government's attention and, in a test case, attempts are being made for recovery of decretal amount from a Receiver-in-possession in one case of group application. The matter is still pending as the Receiver has filed an appeal before District Judge against the order of attachment issued.

Extension of services of the clerks of the High Court and Civil Courts.

73. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: (*a*) Will the Hon'ble Minister in charge of the Judicial Department kindly state how many clerks and assistants of the Calcutta High Court are now on extension?

(*b*) How many members of the ministerial service of District Judges' Court and Small Causes Court and Munsifs' and Sub-Judges' Courts are now on extension?

The Hon'ble Mr. H. S. SUHRAWARDY (on behalf of the Hon'ble Nawab Musharruff Hossain, Khan Bahadur): (*a*) None.

(*b*) Eight of the District Judges' Courts, 2 of Small Causes Courts, 2 of Sub-Judges' Courts and 7 of Munsifs' Courts.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: May I enquire if they are on extension after 60 years of age?

The Hon'ble Mr. H. S. SUHRAWARDY (on behalf of the Hon'ble Nawab Musharruff Hossain, Khan Bahadur): I believe that is correct.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is there any reason for their being kept on extension in spite of the resolution passed in the Assembly to the contrary?

The Hon'ble Mr. H. S. SUHRAWARDY (on behalf of the Hon'ble Nawab Musharruff Hossain, Khan Bahadur): In each case when an extension is given, specific reasons are put forward in support of it. We have kept this in view, shall try to minimise all such cases of extension and see that in future no such extensions are granted except for very adequate reasons.

Motion for Adjournment.

Mr. PRESIDENT: Order, order. The Chair has received notice of the following motion for adjournment from Mr. Ranajit Pal Choudhury:—

"That this House do adjourn its business to discuss a definite matter of urgent public importance, viz., the failure of Government to take adequate steps to prevent unlawful interference in the due

exercise of the rights conferred by the Government of India Act, 1935, and the rules made thereunder, on the electors in the constituency of Bogra *cum* Pabna Muhammadan (Rural) in connction with the recent election of a member to the Bengal Legislative Council."

Mr. RANAJIT PAL CHOUDHURY: Sir, in this connection I beg to state——

Mr. PRESIDENT: The Chair is to see first if the motion is in order. It is undoubtedly a matter of importance. The question is how is it "urgent"?

Mr. RANAJIT PAL CHOUDHURY: The urgency consists in the fact that the occurrence took place on the 15th March and the polling was to be held on the 16th of March. In the meantime, the Council adjourned for the Easter holidays and therefore the adjournment motion could not be moved earlier.

Mr. PRESIDENT: The Council adjourned on the 21st March.

Mr. RANAJIT PAL CHOUDHURY: I beg to submit, Sir, that we being in Calcutta could receive the news only on the 21st evening and therefore we could not take immediate steps in the matter in the Council earlier. Further, the Council, as is known to all, Sir, adjourned on the 21st.

Mr. PRESIDENT: If any irregularity has come to the notice of a member in the matter of elections, it is open to him to move the Governor for the appointment of an election tribunal to go into the irregularity or the grievances due to that irregularity. That would be the proper procedure to adopt.

Mr. RANAJIT PAL CHOUDHURY: What I would like to submit is this: that on account of the failure of the Government to take adequate steps, the election agent of the member concerned was bodily removed from the polling station to a distance of 30 miles where there was no railway line, practically no communication whatsoever. Not only this, Sir. The League nominees and the League agents over there went to the extent of even assaulting the election agent. And, therefore, I submit that this is a matter of public importance and that we could not move this adjournment motion earlier, though the matter was urgent, as we could not get the news before the 21st instant.

Mr. PRESIDENT: (To the honourable member who was concerned in this election.) Do you like to say anything, Khan Bahadur?

Khan Bahadur Maulvi MUHAMMAD IBRAHIM: সভাপতি মহোদয়,—এবার electionএর সময় আমার উপর যে সমস্ত অত্যাচার ও অবিচার হোয়েছিল, সে সম্বন্ধে আমার কিছু বল্‌বার আছে। আপনি যদি দয়া কোরে অনুমতি দেন, তাহোলে এসম্বন্ধে কিছু বোল্‌তে পারি।

Mr. PRESIDENT: এখানে শুধু বিচার্য্য এই যে যদি কিছু অন্যায় অবিচার হোয়ে থাকে, তাহোলে গভর্ণমেণ্টের কাছে দরখাস্ত দিলে একটি Election Tribunal বোস্‌বে। সেই, Tribunal বিচার কোরে দেখবে যে বাস্তবিক কোন অন্যায় ও অত্যাচার হোয়েছে কি না। এই সব ব্যাপারের জন্য গভর্ণমেণ্টের একটি Procedure আছে।

Khan Bahadur Maulvi MUHAMMAD IBRAHIM: আমি যে কি ভাবে নির্য্যাতিত ও অত্যাচারিত হোয়েছি সে সম্বন্ধে আমি মেম্বারদের নিকট আমার প্রাণের বেদনা প্রকাশ করিতে চাই। সভাপতি মহাশয় যদি আমাকে opportunity দেন, তাহোলে সে সম্বন্ধে আমি দু এক কথা বোল্‌তে পারি। আজ যদি সময় না হয় অন্য দিনও বোল্‌তে পারি।

Mr. NARESH NATH MOOKERJEE: Sir, this is a matter which directly concerns the affairs of this House, and a member of this House is connected with the incident. Would you not, Sir, consider this as a matter of grave public importance, particularly as certain disclosures are likely to be made which are likely to call for important explanations from the Government benches. In our opinion, Sir, it is certainly a matter which should be permitted to be discussed in this House. At least we would like to hear the grievances of the member concerned. We have heard with grave concern of the incidents regarding this Bogra election and availing of this opportunity it may be possible for other members also to give us information regarding the elections in other places.

Mr. PRESIDENT: The Chair does not hold that it is not a matter of public importance; but the difficulty is that this is not the forum to ventilate the grievances relating to election. As I have said, the proper course would be to apply to His Excellency the Governor and then he will appoint an election tribunal to go into the facts of the case. So, I hold that this motion is not in order because in the technical sense it is not urgent.

Mr. SECRETARY: Sir, I have received a letter from Mr. Porter. It runs as follows:—

Calcutta, the 13th March, 1940.

From—A. E. Porter, Esq., I.C.S., Additional Secretary to the Government of Bengal, Home (Constitution and Elections) Department,

To—The Secretary to the Bengal Legislative Council,

I am directed to refer to your letter No. 241-L.C., dated the 28th February, 1939, forwarding a copy of an address presented to the Governor by the Bengal Legislative Council on the subject of the fixation of a definite quota for the recruitment of Bengalees in all branches of Civil and Defence Services under the Government of India.

2. In reply, I am to say that a copy of the address has been forwarded to the Government of India for information.

Notices given by the Hon'ble Ministers of amendments relating to non-official Bills.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I beg to give notice of the following amendment to the motion of Khan Bahadur Saiyed Muazzamuddin Hosain, M.L.C., that the Bengal Agricultural Debtors (Amendment) Bill, 1938, be referred to a Select Committee at the session of the Council to be held on the 29th March, 1940:—

"That the Bill be circulated for the purpose of eliciting public opinion thereon by the 31st December, 1940."

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, on behalf of the Nawab Bahadur, of Dacca, I have the honour to give notice that I desire to move in the current session of the Bengal Legislative Council the following amendment to Mr. Nur Ahmed's, M.L.C.'s, motion that his Bill for the amendment of the Bengal Food Adulteration Act, 1919, be referred to a Select Committee, viz.—

"That the Bill be recirculated for the purpose of eliciting further opinion thereon by the 31st December, 1940."

There is one more notice which I want to give formally.

Mr. PRESIDENT: Yes, Mr. Tamizuddin Khan.

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, I have the honour to give notice that I desire to move in the current session of the Bengal Legislative Council the following amendment to Mr. Nur Ahmed's, M.L.C.'s, motion that his Bill for the amendment of the Bengal Municipal Act, 1932, be referred to a Select Committee, viz.—

"That the Bill be recirculated for the purpose of eliciting further opinion thereon by the 31st December, 1940."

The Bengal Abolition of Dowry Bill, 1940.

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, with your permission, in the absence of the Hon'ble Nawab Sahib, I beg to present to the House the report of the Select Committee on the Bengal Abolition of Dowry Bill, 1938.

Mr. LALIT CHANDRA DAS: On a point of information, Sir. May I know who was the Chairman of that Select Committee?

Rai SURENDRA NARAYAN SINHA Bahadur: The Hon'ble Nawab Musharruff Hossain, Khan Bahadur.

Mr. LALIT CHANDRA DAS: Was he elected the Chairman?

Rai SURENDRA NARAYAN SINHA Bahadur: Yes. In the Select Committee he was elected the Chairman.

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I further crave your permission to move on the 29th March next that the Bengal Abolition of Dowry Bill, 1940, as reported by the Select Committee of the Council, be taken into consideration and also that the Bill be passed. I further request you, Sir, to suspend rule 61(5) of the Bengal Legislative Council Procedure Rules and allow me to move that notices of amendments be given by the noon of the 28th.

Mr. PRESIDENT: As a very special case, because the honourable member's term will expire very soon, I suspend the rule. All notices of amendments on this Select Committee report will be received in my office by noon to-morrow, the 28th March.

The Bengal Jute Regulation Bill, 1940.

Mr. PRESIDENT: The House will now resume further consideration of the Bengal Jute Regulation Bill, 1940.

Clause 6.

Clause 6 stand part of the Bill.

Mr. LALIT CHANDRA DAS: I beg to move that in sub-clause (*1*) of clause 6 of the Bill, for the words "the local areas in which" in line 2, the words "the areas in which jute is grown that" be substituted.

Sir, I shall read clause 6(*1*) in order to explain why I want to put in the words suggested in my amendment. Clause 6(*1*) runs thus: "The Provincial Government shall by notification declare the local areas in which there shall be constituted Union Jute Committees and thereupon the Collector shall as soon as may be cause to be constituted such a Committee for each such local area within his jurisdiction." I think the language is not quite clear. After my amendment the section will read thus——

Mr. PRESIDENT: Reading of the section is unnecessary. Motion moved: that in sub-clause (*1*) of clause 6 of the Bill, for the words "the local areas in which" in line 2, the words "the areas in which jute is grown that" be substituted.

The Hon'ble Mr. TAMIZUDDIN KHAN: I oppose the amendment. First of all, this seems to be unnecessary. In any area where no jute is grown there will be no necessity for appointing any Committee whatsoever. From that point of view it is unnecessary. I also think that there is some misapprehension in the mind of my friend. The idea is that in certain areas where jute is very sparsely sown, these Committees will not be set up.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) of clause 6 of the Bill, for the words "the local areas in which" in line 2, the words "the areas in which jute is grown that" be substituted.

(The amendment was negatived.)

Rai Sahib INDU BHUSAN SARKER: I beg to move that after the word "jurisdiction" at the end of sub-clause (*1*) of clause 6 of the Bill, the words "for a term of three years" be added.

Sir, in clause 6(*1*) there is no period mentioned. The clause will run thus: "The Provincial Government shall by notification declare the local areas in which there shall be constituted Union Jute Committees

and thereupon the Collector shall, as soon as may be, cause to be constituted such a Committee for each such local area within his jurisdiction for a term of three years." There ought to be mention of the period for which these Union Jute Committees will have to work and that is why I propose the addition of these words.

Mr. PRESIDENT: Motion moved: that after the word "jurisdiction" at the end of sub-clause (*1*) of clause 6 of the Bill, the words "for a term of three years" be added.

The Hon'ble Mr. TAMIZUDDIN KHAN: I oppose the amendment. I am afraid, Sir, my friend has not read the clause carefully. I refer him to sub-clause (*9*) where the term is mentioned as two years.

Mr. PRESIDENT: The question before the House is: that after the word "jurisdiction" at the end of sub-clause (*1*) of clause 6 of the Bill, the words "for a term of three years" be added.

(The amendment was negatived.)

Mr. LALIT CHANDRA DAS: I beg to move that for sub-clause (*2*) of clause 6 of the Bill, the following be substituted, namely:—

(*2*) Each Committee shall consist of not more than seven members, three of whom shall be growers of jute and all of whom shall be elected by persons residing within the area of the jurisdiction of the Committee; and the elected members shall elect one of them as Chairman of the Committee.

That sub-clause (*3*) of clause 6 of the Bill be omitted.

Sir, according to the provision regarding the constitution of the Union Jute Committees, as given in clause 6, the Committee should consist of 7 members all of whom including the Chairman will be appointed by the Collector of the district. That is the procedure laid down in the clause regarding the constitution of the Union Jute Committees. My amendment suggests that instead of the Collector appointing all the members, they should be elected by votes of the people of the locality.

I also want that sub-clause (*3*) should be omitted. because in my opinion the Chairman should also be elected.

With these words, Sir, I move my amendments.

Mr. PRESIDENT: Motion moved: that for sub-clause (*2*) of clause 6 of the Bill, the following be substituted, namely:—

"(*2*) Each Committee shall consist of not more than seven members, three of whom shall be growers of jute and all of whom

shall be elected by persons residing within the area of the jurisdiction of the Committee: and the elected members shall elect one of them as Chairman of the Committee.

That sub-clause (3) of clause 6 of the Bill be omitted."

Mr. HUMAYUN KABIR: I beg to support this amendment, and I think that I can request the honourable members of the Coalition party also to consider this amendment on its merits. I would also in this connection remind the Hon'ble Minister in charge of this Bill that at a time when he was for a short period a member of the Opposition, one of the charges which he made against the Cabinet was that it was using the principle of nomination. One of the conditions which he made for co-operation with the Ministry was the abolition of nomination. Since then there have been many changes in Bengal politics and we find that the Hon'ble Minister has crossed the floor without there being any change in the policy of the Government. Government have not yet abolished nomination. What is still more surprising is that to-day we find the same Hon'ble Minister coming forward with a Bill in which the principle of nomination is going to be introduced afresh. Only about a year and a half ago, the Hon'ble Minister concerned was prepared to go against the Government and declare it as his considered policy that nomination should be abolished. To-day the same Hon'ble Minister comes before this House with a Bill in which nomination is going to be introduced afresh; instead of doing away with nomination where it existed till now, he now proposes to introduce nomination in a field where nomination did not exist at all.

There are also other considerations with regard to the suitablity of nomination in such a matter. The Committees which will be constituted by the Collector according to the terms of the Bill will be charged with the duty of looking after the interests of the cultivators themselves. After all, in this year of grace 1940, I hope nobody will be found forthcoming to say that the Collector understands the interests of the cultivators better than the cultivators themselves. The whole principle of nomination is based on the paternal theory of Government. If we are to believe in the paternal theory of Government by which good is to be done to the subjects, then the present Government including the Ministers have no right to come to the Assembly to-day. They are the delegates of the people and if the people can elect their delegates to look after the affairs of the province as a whole, we can also take it that they have got competence enough to elect their representatives to look after their interests with regard to a particular question in a particular locality.

Again, Sir, these Committees will be charged with the duties of checking the areas, the amount of land which may be given to a particular cultivator. It is specially important that people who enjoy

local confidence, people who know the locality thoroughly and know the details with regard to the distribution of the land between the cultivators should be on these Committees. Even with the best of intentions, the Collector cannot know each locality with an equal degree of intimacy. If the Collector is to make the nominations to these Union Jute Committees, he will have to depend on the reports which he will receive from his officers and in many cases I have no doubt those recommendations will be on considerations other than the knowledge of the persons conversant with the locality. It may be that his recommendations will be more acceptable to the authorities than those of other persons who may have greater influence in the locality or may know the locality better.

Therefore, on both these considerations—that is, the consideration that even if the entire House approved of nomination, the Hon'ble Minister at any rate cannot on principle support nomination in a fresh field, and on the ground that here nomination will definitely hamper the efficiency of the administration of the Union Committees,—I support this amendment and I hope the Coalition party will consider it on its merits.

The Hon'ble Mr. TAMIZUDDIN KHAN: I oppose both these amendments. It is gratifying to find that my friend Humayun Kabir is living up to his reputation. He is a teacher of young men and as such he hardly places his feet on the land; he always soars in the land of imagination. This proposal for a Jute Bill was hardly in existence at the time to which my friend refers, that is when I expressed my views against the principle of nomination; it was not against the principle of nomination as such but against nomination in certain specific spheres of existence that I expressed my opinion. My friend refers to that and says that I have changed my views. I think he is wrong. This is a new field altogether. Hon'ble members will kindly see that these Committees will perform very simple functions. So, why undergo the trouble of electing these Committees? If you go to elect these Committees, it will involve a good deal of expenditure and all that for what purpose? These Committees will not be deliberative bodies like the Legislative Council or the Assembly or the District Boards, Local Boards or Union Boards. These Committees will only select the areas according to the records that will be in existence. Take an example. Cultivator A has got a record for 10 bighas of land, the Committee will allot 10 bighas according to that record, but if the cultivator wants to sow jute not on the exact plots comprising the 10 bighas but on some other land 10 bighas in area, the Committee will give licence accordingly. Against that again, an appeal will lie. Therefore, there is no reason to apprehend that these Committees will be able to do any harm anywhere. The proposal of my friend Mr. Lalit Chandra Das is that the members of these Committees should be elected

by persons residing within the jurisdiction of the area of the Committee. Surely, by all persons he means all persons both male and female and all persons whether they are growers of jute or not. I do not see any logic behind this proposal. What have the female folk got to do with nomination of members of these Committees?

Mr. PRESIDENT: The question before the House is: that for sub-clause (2) of clause 6 of the Bill, the following be substituted, namely:—

"(2) Each Committee shall consist of not more than seven members, three of whom shall be growers of jute and all of whom shall be elected by persons residing within the area of the jurisdiction of the Committee; and the elected members shall elect one of them as Chairman of the Committee."

That sub-clause (3) of clause 6 of the Bill be omitted.

A division being challenged, the House divided with the following result:—

AYES—13.

Chakraverti, Mr. Sharish Chandra.
Das, Lalit Chandra.
Datta, Mr. Bankim Chandra.
Datta, Mr. Narendra Chandra.
Dutta, Mr. Kamini Kumar.
Goswami, Mr. Kanai Lal.
Ibrahim, Khan Bahadur Maulvi Mohammad.
Kabir, Mr. Humayun.
Maitra, Rai Bahadur Brojendra Mohan.
Mookerjee, Mr. Naresh Nath.
Pal Choudhury, Mr. Ranajit.
Sanyal, Mr. Sachindra Narayan.
Sarkar, Rai Sahib Indu Bhusan.

NOES—22.

Ahmad, Khan Bahadur Naziruddin.
Ahmed, Mr. Meshahuddin.
Ahmed, Mr. Nur.
Baksh, Mr. Kader.
Barua, Dr. Arabinda.
Chowdhury, Khan Bahadur Rezzaqui Haider.
D'Rozario, Mrs. K.
Hosain, Khan Bahadur Saiyed Muazzamuddin.
Hossain, Mr. Latafat.
Hunter, Mr. H. C. A.
Karim, Khan Bahadur M. Abdul.
Khan, Khan Bahadur Muhammad Asaf.
Laidlaw, Mr. W. B. G.
Momin, Begum Hamida.
Ormond, Mr. E. C.
Rahman, Khan Bahadur Ataur.
Rahman, Khan Bahadur Mukhlesur.
Ray, Mr. Nagendra Narayan.
Roy, Rai Bahadur Radhica Bhusan.
Roy, Chowdhury, Mr. Krishna Chandra, O.B.E.
Scott-Kerr, Mr. W. F.
Singh Roy, Mr. Saileswar.

Mr. PRESIDENT: Order, order. The House has divided. The "Ayes" being 13 and the "Noes" 22, the amendment is negatived.

Mr. KAMINI KUMAR DUTTA: Sir, I beg to move:—

That in sub-clause (2) of clause 6 of the Bill, the words "not more than" in lines 1 and 2, be omitted.

The object of this amendment is not to give any scope to have the Committee constituted for any number less than seven so that "not more than" may be omitted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*2*) of clause 6 of the Bill, the words "not more than" in lines 1 and 2, be omitted.

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, I oppose it. In certain areas there may be very little jute and a lesser number of members may do. So, why should it be made binding that the number should be seven, including the Chairman and not six or five, as the case may be. In this view of the matter, I oppose it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*2*) of clause 6 of the Bill, the words "not more than" in lines 1 and 2, be omitted.

(The amendment was negatived.)

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, I beg to move:—

That in sub-clause (*2*) of clause 6 of the Bill, after the words "growers of jute" in line 3, the words "and not less than one shall be landholder" be inserted.

Sir, the duty of the Committee would be to allocate the area to the grower. So, the interested parties will be the landlord and the jute-grower or the tenant. I think it would be most reasonable that the landlord should be represented on the Committee. So, out of three, I would suggest that one should be a landlord and that would facilitate the allocation of the area also.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*2*) of clause 6 of the Bill, after the words "growers of jute" in line 3, the words "and not less than one shall be landholder" be inserted.

The Hon'ble Mr. TAMIZUDDIN KHAN: Again, Sir, I am sorry I have to oppose this amendment. The landholder is not, in my opinion, in any way interested and he should not come into the picture at all.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*2*) of clause 6 of the Bill, after the words "growers of jute" in line 3, the words "and not less than one shall be landholder" be inserted.

(The amendment was negatived.)

Mr. KAMINI KUMAR DUTTA: Sir, I beg to move:—

That for sub-clause (*3*) of clause 6 of the Bill, the following be substituted, namely:—

"(*3*) Of the seven members of each Committee three shall be elected by the members of the union board lying within the area of the jurisdiction of the Committee and the remaining four shall be elected by the growers of jute within the union according to the rules prescribed for the purpose."

The main object of this amendment is to introduce the principle of election in place of nomination. At the same time, the amendment is of a character to which no objection can be taken on the ground of its being expensive. It provides that of the seven members, three shall be elected by the members of the union boards and as regards the remaining four, they are not to be elected by all persons of the locality but only by the growers of jute who are directly interested. So, this amendment does not come within the mischief of being vague or expensive and at the same time it introduces the principle of election.

Mr. PRESIDENT: Amendment moved: that for sub-clause (*3*) of clause 6 of the Bill, the following be substituted, namely:—

"(*3*) Of the seven members of each Committee three shall be elected by the members of the union board lying within the area of the jurisdiction of the Committee and the remaining four shall be elected by the growers of jute within the union according to the rules prescribed for the purpose."

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, I oppose the amendment. I have already given my reasons for such opposition in connection with another amendment of this nature.

Mr. PRESIDENT: The question before the House is: that for sub-clause (*3*) of clause 6 of the Bill, the following be substituted, namely:—

"(*3*) Of the seven members of each Committee three shall be elected by the members of the union board lying within the area of the jurisdiction of the Committee and the remaining four shall be elected by the growers of jute within the union according to the rules prescribed for the purpose."

(The amendment was negatived.)

Mr. LALIT CHANDRA DAS: Sir, I beg to move:—

That in sub-clause (*4*) of clause 6 of the Bill, for the words beginning with "Collector", in line 2 to the end of the sub-clause, the words "District Board and of any Sub-Committee of three members of the District Board authorised by it by general or special order in this behalf" be substituted.

Clause 4, Sir, states that "the Committee shall be subject to the control and supervision of the Collector and of any servant of the Crown authorized by the Collector by general or special order in this behalf".

Here also, we want that the controlling authority should be an elective body, a popular body, and the Union Jute Committee should be placed under that elective body and not under the control of the Collector who does not owe any allegiance to the Legislature. Statutorily, the Collector is not in any way responsible to the Legislature and I want that these Committees should be not so many puppet shows of the Collector. I want that these Committees should be live things controlled by some higher elected body like the District Board. So, instead of giving power to the Collector, the power should be given to the District Board or any Special Committee which may be appointed by the District Board.

Mr. PRESIDENT: Motion moved: That in sub-clause (*4*) of clause 6 of the Bill, for the words beginning with "Collector" in line 2 to the end of the sub-clause, the words "District Board and of any Sub-Committee of three members of the District Board authorised by it by general or special order in this behalf" be substituted.

The Hon'ble Mr. TAMIZUDDIN KHAN: I oppose this amendment. The House has now accepted the proposal that the Committees will be nominated by the District Magistrate. Now, my friend wants to take away the power of supervision over the Committee from the District Magistrate and invest it in the District Board. That is not only an illogical but a very queer idea. The Collector will appoint the Committees, but will have no power of supervision. If the District Boards are given this power, the whole business will be unnecessarily hampered.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*4*) of clause 6 of the Bill, for the words beginning with "Collector" in line 2 to the end of the sub-clause, the words "District Board and of any Sub-Committee of three members of the District Board authorised by it by general or special order in this behalf" be substituted.

(The amendment was negatived.)

Mr. LALIT CHANDRA DAS: I beg to move that in sub-clause (*9*) of clause 6 of the Bill, for the word "two" in line 3, the word "three" be substituted.

The sub-clause runs thus: Subject to the provisions of sub-sections (*5*) and (*6*), the term of a Committee constituted under this section shall be two years. Now, instead of two years, I think the period should be three years. With these words, Sir, I move my amendment.

Mr. PRESIDENT: Motion moved: That in sub-clause (*9*) of clause 6 of the Bill, for the word "two" in line 3, the word "three" be substituted.

Rai Sahib INDU BHUSAN SARKER: I support this amendment in view of the fact that generally the life of a Committee of any self-governing body is three to five years. Even the Legislative Assembly has got a life of five years and the District Boards have got a life of three years. So, here also the life of the Committee should be three years. Within two years no one will be able to manage the affairs smoothly, because it will take time to acquire some experience in the matter. So, it is desirable that the life of the Committee should be three years.

The Hon'ble Mr. TAMIZUDDIN KHAN: I oppose this amendment. In accordance with popular demand elsewhere, the term was fixed at two and not extended to three years.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*9*) of clause 6 of the Bill for the word "two" in line 3, the word "three" be substituted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 6 stand part of the Bill.

(The motion was agreed to.)

Clause 7.

Mr. PRESIDENT: Clause 7 stand part of the Bill.

Rai Sahib INDU BHUSAN SARKER: I beg to move that in sub-clause (*1*) of clause 7 of the Bill, after the word "person" wherever it occurs, the words "or jute mill" be inserted.

Sir, the clause as worded is not clear as to whether the word "person" will include jute mill. In order to make it clear, I want to insert these words.

The Hon'ble Mr. TAMIZUDDIN KHAN: I oppose the amendment. This is unnecessary. The word "person" will include jute mill and others.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) of clause 7 of the Bill, after the word "person" wherever it occurs, the words "or jute mill" be inserted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 7 stand part of the Bill.

(The motion was agreed to.)

Clause 8.

Mr. PRESIDENT: Clause 8 stand part of the Bill.

Rai Sahib INDU BHUSAN SARKER: I beg to move that in sub-clause (*1*) (*a*) of clause 8 of the Bill, for the words "one member appointed by the Provincial Government" in line 1, the words "Director of Agriculture, Bengal" be substituted.

Sir, my reason for moving this amendment is very simple. Instead of one member appointed by Government, I want to make the position definite by saying who will be that person.

Mr. PRESIDENT: Motion moved: that in sub-clause (*1*) (*a*) of clause 8 of the Bill for the words "one member appointed by the Provincial Government" in line 1, the words "Director of Agriculture, Bengal" be substituted.

The Hon'ble Mr. TAMIZUDDIN KHAN: I oppose this amendment. I do not see why the choice should be limited to the Director of Agriculture. Some other person may also be appointed.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) (*a*) of clause 8 of the Bill for the words "one member appointed by the Provincial Government" in line 1, the words "Director of Agriculture, Bengal" be substituted.

(The amendment was negatived.)

Mr. LALIT CHANDRA DAS: I beg to move that in sub-clause (*1*) (*a*) of clause 8 of the Bill, after the words "the Provincial Government" in line 2, the words "and one member of the Assembly

appointed by the Speaker and one member of the Council appointed by the President to represent the Legislature" be substituted.

Sir, clause 8 deals with the constitution of the Advisory Board which, according to the speech delivered by the Hon'ble Minister, has very important functions to perform. In fact, the duties of the Advisory Board shall be to advise the Provincial Government in regard to any matter concerning the regulation of the production of jute that may be referred to it by the Provincial Government from time to time. When we look to the constitution of the Advisory Board, we find that the Advisory Board will consist of members one of whom will be appointed by the Provincial Government to represent them, four members to be appointed by the Provincial Government to represent various interest and six others to be appointed by the Provincial Government again, to represent the growers of jute in Bengal. In this Advisory Board, I think there should be at least two members; one to represent the Assembly and the other the Council, to be appointed by the Speaker and the President respectively. With these words, I move my amendment.

Mr. PRESIDENT: Motion moved: that in sub-clause (*1*) (*a*) of clause 8 of the Bill after the words "the Provincial Government" in line 2, the words "and one member of the Assembly appointed by the Speaker and one member of the Council appointed by the President to represent the Legislature" be substituted.

The Hon'ble Mr. TAMIZUDDIN KHAN: I have to oppose this amendment. I would like to point out that amongst the members who will be appointed by the Provincial Government there may or may not be some members of the Legislature; but it seems to me surprising that my friend should ask that the Legislature as such should be represented on the Committee. How is the Legislature particularly interested in such a Committee? Why should the Legislature be represented on them? I fail to see any reason. It might be suggested that some members of the Legislature should be on the Committee and there is provision for that; there is nothing to exclude the members of the Legislature. As it is, I oppose the amendment.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) (*a*) of clause 8 of the Bill after the words "the Provincial Government" in line 2, the words "and one member of the Assembly appointed by the Speaker and one member of the Council appointed by the President to represent the Legislature" be substituted.

(The amendment was negatived.)

Mr. KAMINI KUMAR DUTTA: Sir, I think it will be more helpful if I move 139 and 147 together.

Mr. PRESIDENT: Yes, you may move the two amendments together.

Mr. KAMINI KUMAR DUTTA: I beg to move:

that in sub-clause (*1*) of clause 8 of the Bill for the paragraph (*c*), the following be substituted, namely:—

"(*c*) six members to be elected by the members of the Provincial Legislatures to represent the growers of jute in Bengal from amongst those who possess the necessary qualification to be eligible for election to the Bengal Legislative Assembly";

and

that after paragraph (*c*) of sub-clause (*1*) of clause 8 of the Bill, the following new paragraph be inserted, namely:—

"(*d*) of the six members four to be elected by the members of the Bengal Legislative Assembly and two to be elected by the members of the Bengal Legislative Council."

Sir, it appears that in the constitution of this Advisory Board, the number of members has been fixed at 11. Of these 11, according to my amendment, five are left to be appointed by the Provincial Government and only the remaining six are to be elected. But as to the eligibility of those who will be elected by the Legislature some qualification is required.

Mr. PRESIDENT: Amendments moved:

that in sub-clause (*1*) of clause 8 of the Bill, for the paragraph (*c*), the following be substituted, namely:—

"(*c*) six members to be elected by the members of the Provincial Legislatures to represent the growers of Jute in Bengal from amongst those who possess the necessary qualification to be eligible for election to the Bengal Legislative Assembly"

and

that after paragraph (*c*) of sub-clause (*1*) of clause 8 of the Bill, the following new paragraph be inserted, namely:—

"(*d*) of the six members four to be elected by the members of the Bengal Legislative Assembly and two to be elected by the members of the Bengal Legislative Council."

Mr. HUMAYUN KABIR: Sir, I beg to support this amendment and once again support the principle of election as opposed to the principle of nomination. But in this connection, I would also beg to remind the Hon'ble Minister in charge that if he accuses me of having lost my head in imagination, I think I can retort by saying that he has lost himself in fiction. There was no suggestion in the other amendment which I moved that the Hon'ble Minister had suggested that there should be no nomination in the Jute Committees, because nobody had Jute Committees in contemplation at that time. But the honourable member,—he was only an ordinary member at that time,—categorically stated that he was against the principle of nomination as such. I fail to understand how he reconciles that categorical statement with the new interpretation which he gives to it to-day that though he is against nomination as such and though he was against nomination in all the bodies which at that time existed, he at the same time reserved to himself the right to believe in nomination for any institution which might be created in future. Therefore, Sir, was it a case of condemnation of a present evil but condonation of the same evil if only it was somehow or other projected into the future? I fail to understand how the Hon'ble Minister can reconcile the two statements. To his statement that I lost my head in imagination, I must retort that his own reply is no better than wandering about in fiction which has hardly any connection with reality.

With regard to this particular amendment, the objection which the Hon'ble Minister raised a moment ago to the other amendment does not apply. He asked why should the Legislature as such be represented on the Committee as was suggested in that amendment? But the present amendment does not suggest that the Legislature as such shall be represented. The Government itself has provided that there shall be six members appointed by the Provincial Government to represent the growers of jute in Bengal. Instead of that this amendment wants that these six representatives should be persons elected by the Legislature, may be from among their own members or may be from outside, leaving it entirely to the discretion of the Legislature, just as the Hon'ble Minister has reserved to himself the discretion under the clauses of the proposed Bill. For, I take it that in his Bill also, there is no bar to the Provincial Government nominating these six members from the Legislature. Not merely that, Sir. I think I might go a step further and say that it is more than likely that out of the six members, at least some, if not all, shall be members of the Legislature if the power of nomination is left to the discretion of Government. In place of that, this amendment proposes that these persons shall be selected by the Legislature and the honourable the mover of this amendment has also provided for division between the two Houses of the Legislature. I, therefore, ask the Hon'ble Minister

concerned what argument he has against accepting this amendment? If it is his usual argument that this House has got to accept whatever comes from another House, even that argument is not only hackneyed but also irrelevant in this particular case. There is no hurry about this Bill at the moment. At one time, no doubt, it was thought that the Bill must be put on the statute book before a particular date, as otherwise it could not be put into operation in this very year. But now, Sir, its operation has been postponed till the next year and since its operation has been postponed till the next year, there is no reason why the Legislature, this House as well as the other, should not consider the different amendments and the different proposals on their own merits and come to a decision which is correct. Let correctness rather than conformity be the principle which should guide this House.

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, I have no time to explain to members who had not been present on the previous days why this Bill is a very urgent one. All the other members fully know about this. Sir, as regards this particular amendment, what I submit is this. This is no doubt one of the ways of constituting the Advisory Board and the course suggested in the Bill itself is also another feasible course. My question is how this course can be taken as a definitely better course than the other one. Again, Sir, the amendment as it stands cannot be accepted because it is vague; it is incomplete. It says that "six members be elected by the members of the Provincial Legislature to represent the growers of jute in Bengal from amongst those who possess the necessary qualification to be eligible for election to the Bengal Legislative Assembly." Sir, again, why this limitation that only those persons who are eligible for election to the Bengal Legislative Assembly, will have the right to be elected by the Legislature? What I submit is this: that if the proposal made by Government works unsatisfactorily, later on this thing may be easily changed by an amending Act but as far as I see, Sir, the proposal made by Government will lead to no difficulty whatsoever because, after all this will be an advisory body and certainly Government will be in a position to select proper persons who will be able to give necessary and valuable advice in this matter. In this view of the matter, I oppose this amendment.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) of clause 8 of the Bill, for the paragraph (*c*), the following be substituted, namely:—

"(*c*) six members to be elected by the members of the Provincial Legislatures to represent the growers of jute in Bengal

from amongst those who possess the necessary qualification to be eligible for election to the Bengal Legislative Assembly";

and

that after paragraph (*c*) of sub-clause (*1*) of clause 8 of the Bill, the following new paragraph be inserted, namely:—

"(*d*) of the six members four to be elected by the members of the Bengal Legislative Assembly and two to be elected by the members of the Bengal Legislative Council."

A Division being challenged, the House divided with following result:—

AYES—17.

Bose, Rai Bahadur Manmatha Nath.
Chakraverti, Mr. Sharish Chandra.
Das, Mr. Lalit Chandra.
Datta, Mr. Bankim Chandra.
Dutta, Mr. Kamini Kumar.
Goswami, Mr. Kanai Lal.
Ibrahim, Khan Bahadur Maulvi Mohammad.
Kabir, Mr. Humayun.
Maitra, Rai Bahadur Brojendra Mohan.
Mookerjee, Mr. Naresh Nath.
Pal Choudhury, Mr. Ranajit.
Roy, Mr. Amulyadhone.
Sanyal, Mr. Sachindra Narayan.
Sarkar, Rai Sahib Indu Bhusan.
Sen, Rai Sahib Jatindra Mohan.
Sinha, Rai Bahadur Surendra Narayan.
Sinha, Raja Bahadur Bhupendra Narayan, of Naashipur.

NOES—27.

Ahmad, Khan Bahadur Naziruddin.
Ahmed, Mr. Mesbahuddin.
Ahmed, Mr. Nur.
Baksh, Mr. Kader.
Barua, Dr. Arabinda.
Chowdhury, Khan Sahib Abdul Hamid.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Khan Bahadur Rezzaqui Haider.
D'Rozario, Mrs. K.
Hossain, Khan Bahadur Saiyed Muazzamuddin.
Hossain, Mr. Latafat.
Hunter, Mr. H. C. A.
Jan, Alhaj Khan Bahadur Saaikh Muhammad.
Karim, Khan Bahadur M. Abdul.
Khan, Khan Bahadur Muhammad Asaf.
Laidlaw, Mr. W. B. G.
Molla, Khan Sahib Subidali.
Momin, Begum Hamida.
Ormond, Mr. E. C.
Rahman, Khan Bahadur Mukhleswar.
Rashid, Khan Bahadur Kazi Abdur.
Ray, Mr. Nagendra Narayan.
Roy, Rai Bahadur Radhica Bhusan.
Roy, Chowdhury, Mr. Krishna Chandra, O.B.E.
Scott-Kerr, Mr. W. F.
Shamsuzzoha, Khan Bahadur M.
Singh Roy, Mr. Saileswar.

Mr. PRESIDENT: Order, order. The House has divided.

The "Ayes" being 17 and "Noes" 27, the amendment is negatived.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Naashipur: Sir, I beg to move: that in paragaph (*c*) of sub-clause (*1*) of clause 8 of the Bill, for the words "to represent the growers of," the words "from amongst the growers of" be substituted.

Sir, this clause deals with the constitution of the Advisory Board. It has been laid down that six members shall be appointed by the Provincial Government to represent the growers of jute. My idea is

that the representatives cannot have the same idea and they cannot take the same interest as the actual growers of jute themselves. So, it is desirable that the actual growers should be represented in order that they might take more interest to protect their own rights and title than their representatives. Moreover, Sir, it may be that the Government may nominate one representative taking him to be the growers' representative but actually he may not be so. He may even go against them. So, in order to avoid this mistake, it is desirable that the growers themselves should be represented in the Committee instead of their representatives.

Mr. PRESIDENT: Amendment moved: that in paragraph (*c*) of sub-clause (*1*) of clause 8 of the Bill, for the words "to represent the growers of," the words "from amongst the growers of" be substituted.

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, I oppose this amendment. I am afraid we shall have to wait for a long time yet before we can think of nominating the representatives of the actual growers of jute as members of Advisory bodies like this.

Mr. PRESIDENT: The question before the House is: that in paragraph (*c*) of sub--clause (*1*) of clause 8 of the Bill, for the words "to represent the growers of," the words "from amongst the growers of" be substituted.

(The amendment was negatived.)

Rai Sahib INDU BHUSAN SARKER: Sir, I beg to move that after paragraph (*c*) of sub-clause (*1*) of clause 8 of the Bill, the following new paragraphs be inserted, namely:—

(*d*) One member appointed by the Provincial Government to represent the jute mill workers in Bengal, and

(*e*) One expert from the Indian Central Jute Committee.

Sir, the reason for this amendment is quite obvious. The appointment of two members as proposed in my amendment would be to the advantage of the Committee. These two persons will serve the Committee very well.

Mr. PRESIDENT: Motion moved: that after paragraph (*c*) of sub-clause (*1*) of clause 8 of the Bill, the following new paragraphs be inserted, namely:—

(*d*) One member appointed by the Provincial Government to represent the jute mill workers in Bengal, and

(*e*) One expert from the Indian Central Jute Committee.

The Hon'ble Mr. TAMIZUDDIN KHAN: I oppose the amendment.

(The amendment was negatived.)

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: I beg to move that in sub-clause (*1*) of clause 8 of the Bill, for the words "the member so appointed to represent the Provincial Government" appearing in lines 11 and 12, the words "elected by the Committee" be substituted.

It is as plain as anything. Instead of appointment, I want election. The Committee will be appointed by Government and from amongst its members the Chairman should be elected and not appointed.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 8 of the Bill, for the words "the member so appointed to represent the Provincial Government" appearing in lines 11 and 12, the words "elected by the Committee" be substituted.

The Hon'ble Mr. TAMIZUDDIN KHAN: I oppose the amendment. There is no meaning in it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) of clause 8 of the Bill, for the words "the member so appointed to represent the Provincial Government" appearing in lines 11 and 12, the words "elected by the Committee" be substituted.

(The amendment was negatived.)

Rai Sahib INDU BHUSAN SARKER: I beg to move that after paragraph (*b*) of sub-clause (*3*) of clause 8 of the Bill, the following new paragraph be added, namely:—

"(*c*) to make an equitable distribution of the total area on which jute may be grown, district by district."

Sir, if this amendment is accepted, the position will be more clear.

Mr. PRESIDENT: Amendment moved: that after paragraph (*b*) of sub-clause (*3*) of clause 8 of the Bill, the following new paragraph be added, namely:—

(*c*) to make an equitable distribution of the total area on which jute may be grown, district by district.

The Hon'ble Mr. TAMIZUDDIN KHAN: I ›pose this amendment. Such powers were never intended to be giv ı to the Advisory Committee, namely, to make equitable distribution r things like that.

Mr. PRESIDENT: The question before the] ›use is: that after paragraph (*b*) of sub-clause (*3*) of clause 8 of the Bill, the following new paragraph be added, namely:—

"(*c*) to make an equitable distribution of the total area on which jute may be grown, district by district."

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 8 stand part of the Bill.

(The motion was agreed to.)

Clause 9.

Mr. PRESIDENT: Clause 9 stand part of the Bill.

Mr. LALIT CHANDRA DAS: I beg to move that at the end of clause 9 of the Bill, the following be added, namely:—

"And this declaration will be made after ascertainment of total probable demand of jute both inside and outside India."

Sir, in the areas in which jute may be grown, some power has been taken by the Government according to which the Provincial Government will have to make a certain declaration. Now, in order to protect the interests of the growers of jute, I desire that this amendment should be made, viz., this declaration will be made after ascertainment of total probable demand of jute both inside and outside of India.

With these words, I move my amendment.

Mr. PRESIDENT: Amendment moved: that at the end of clause 9 of the Bill, the following be added, namely:

"And this declaration will be made after ascertainment of probable demand of jute both inside and outside of India."

The Hon'ble Mr. TAMIZUDDIN KHAN: I oppose this amendment. This is unnecessary. My friend's principle will have to be acted up to under all circumstances.

Mr. PRESIDENT: The question before the House is: that at the end of clause 9 of the Bill, the following be added, namely:—

"And this declaration will be made after ascertainment of total probable demand of jute both inside and outside of India."

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 9 stand part of the Bill.

(The motion was agreed to.)

Clause 10.

Mr. PRESIDENT: Clause 10 stand part of the Bill.

Rai SURENDRA NARAYAN SINHA Bahadur: I beg to move that in sub-clause (*1*) of clause 10 of the Bill, for the words "a licence" in line 19, the words "a licence free of cost" be substituted.

Sir, this amendment is self-explanatory.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 10 of the Bill, for the words "a licence" in line 19, the words "a licence free of cost" be substituted.

The Hon'ble Mr. TAMIZUDDIN KHAN: I oppose this amendment. I have already explained that no fees will be levied. As there is no provision for the levying of fees, no cost can be realised. I think it would be better if the honourable member withdraws his amendment.

Rai SURENDRA NARAYAN SINHA Bahadur: Under the circumstances, I beg leave of the House to withdraw my motion.

(The motion was then, by leave of the House, withdrawn.)

Rai Sahib INDU BHUSAN SARKER: I beg to move that after the first proviso to sub-clause (*1*) of clause 10 of the Bill, the following second proviso be inserted, namely:—

"Provided that an equitable distribution of area, union by union, has been made by the Collector of district, after taking into due account the recorded area on which jute was grown and also the area on which jute may be grown."

The reason for this amendment is simple. If this is done, then there will be no grievance on anybody's part. What I am just going to make is an equitable distribution.

With these words, I move my amendment.

Mr. PRESIDENT: Amendment moved: after the first proviso to sub-clause (1) of clause 10 of the Bill, the following second proviso be inserted, namely:—

"Provided that an equitable distribution of area, union by union, has been made by the Collector of district, after taking into due account the recorded area on which jute was grown and also the area on which jute may be grown."

The Hon'ble Mr. TAMIZUDDIN KHAN: I oppose this amendment. This does not at all fit in with the clause.

Mr. PRESIDENT: The question before the House is: that after the first proviso to sub-clause (*1*) of clause 10 of the Bill, the following second proviso be inserted, namely:—

"Provided that an equitable distribution of area union by union, has been made by the Collector of district, after taking into due account the recorded area on which jute was grown and also the area on which jute may be grown."

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 10 stand part of the Bill.

(The motion was agreed to.)

Clause 11.

Mr. PRESIDENT: Clause 11 stand part of the Bill.

Mr. PRESIDENT: The question before the House is: that clause 11 stand part of the Bill.

(The motion was agreed to.)

Clause 12.

Mr. PRESIDENT: Clause 12 stand part of the Bill.

Mr. LALIT CHANDRA DAS: I beg to move that in sub-clause (*1*) of clause 12 of the Bill, for the word "Collector" appearing in line 3, the words "District Judge" be substituted.

Sir, by this clause power has been given to the Collector. I wish that it should be given to the District Judge.

With these words, I move my motion.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 12 of the Bill, for the word "Collector" appearing in line 3, the words "District Judge" be substituted.

The Hon'ble Mr. TAMIZUDDIN KHAN: I oppose this amendment.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) of clause 12 of the Bill, for the word "Collector" appearing in line 3, the words "District Judge" be substituted.

(The amendment was negatived.)

Khan Bahadur NAZIRUDDIN AHMAD: With regard to this clause, Sir, I have only one point to ask. It is about amendment No. 187. It is directed towards correcting a grammatical mistake. It occurs in sub-clause (*1*) of clause 12. The text in line 6 of the sub-clause is—"licence has not issued." The correct version should be "licence has not *been* issued." The word "been" is missing. I am told that it is due to an accidental slip. It is said that in the original Bill the word "been" was there. I have not been able to verify this. Probably there was some printing mistake or a clerical mistake somewhere. I want to know whether the Secretary to the Council would be in a position to make the necessary change under the rules—rule 68—or the Secretary of the originating House would be in a position to make the correction. If that is so, the amendment need not be moved, because that will delay the passage of the Bill, but it is a clear mistake and somehow or other it should be corrected.

Mr. PRESIDENT: I appreciate what the honourable member says but I rule that we have no right to correct even these printing mistakes, because here we take into consideration the Bill as passed by the Assembly and we have to accept it as it has been sent to us. If any corrections are to be made, they must be made through amendments. The Secretary will have no right to correct even the grammatical mistakes of what has been sent by the other House.

Khan Bahadur NAZIRUDDIN AHMED: Can the Secretary of the other House do this?

Mr. PRESIDENT: That is their concern; we have nothing to do with that.

The Hon'ble Mr. TAMIZUDDIN KHAN: I want to know from the Hon'ble Minister as to how he stands in this respect. The only thing that I can propose is this, that even this clerical mistake will have to wait for rectification till an amending Act is passed or if it can be done by the department in any way, that will be done. If not, we shall have to fall back on the necessity of correcting this by bringing an amendment later on.

Khan Bahadur NAZIRUDDIN AHMAD: In this view of the matter, Sir, I do not propose to move the amendment which stands in my name.

Mr. PRESIDENT: The question before the House is: that clause 12 stand part of the Bill.

(The motion was agreed to.)

Clause 13.

Mr. PRESIDENT: Clause 13 stand part of the Bill.

Mr. Sarker, do you move this amendment of yours?

Rai Sahib INDU BHUSAN SARKER: Yes, Sir, I propose to do so with a word or two.

Mr. PRESIDENT: The procedure is this. You can certainly move your motion which is for the deletion of this clause; but you have also the right to oppose the motion when I put this particular clause before the House. While opposing it, you can give your reasons for opposition. As I am going to put the motion before the House, you may oppose the acceptance of this clause.

Mr. PRESIDENT: The question before the House is: that clause 13 stand part of the Bill.

Rai Sahib INDU BHUSAN SARKAR: Sir, I oppose the acceptance of this clause. There is no reason why redress against executive decisions should not be made available to the cultivators in a court of law. If there is any genuine cause for grievance, it is only fair and equitable that the growers should be given the opportunity of seeking judicial redress for the same. Honourable members will, therefore, see the reasonableness of the amendment proposed.

Mr. PRESIDENT: The question before the House is: that clause 13 stand part of the Bill.

(The motion was agreed to.)

Clause 14.

Mr. PRESIDENT: The question before the House is: that clause 14 stand part of the Bill.

(The motion was agreed to.)

Clause 15

Mr. PRESIDENT: Clause 15 stand part of the Bill.

The question before the House is: that clause 15 stand part of the Bill.

(The motion was agreed to.)

Clause 16.

Mr. PRESIDENT: Clause 16 stand part of the Bill.

Rai Sahib INDU BHUSAN SARKER: Sir, I beg to move: that in sub-clause (*1*) of clause 16 of the Bill, for all the words beginning with "imprisonment" in line 30 to the end of the sub-clause, the following be substituted, namely:—

"simple imprisonment which may extend to three months or with fine which may extend to one hundred rupees for first offences, or with both for subsequent offences."

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 16 of the Bill, for all the words beginning with "imprisonment" in line 30 to the end of the sub-clause, the following be substituted, namely:—

"simple imprisonment which may extend to three months or with fine which may extend to one hundred rupees for first offences, or with both for subsequent offences."

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, I oppose this amendment.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) of clause 16 of the Bill, for all the words beginning with "imprisonment" in line 30 to the end of the sub-clause, the following be substituted, namely:—

"simple imprisonment which may extend to three months or with fine which may extend to one hundred rupees for first offences, or with both for subsequent offences."

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 16 stand part of the Bill.

(The motion was agreed to.)

Clause 17.

Mr. PRESIDENT: Clause 17 stand part of the Bill.

Mr. LALIT CHANDRA DAS: Sir, I beg to move that for clause 17 of the Bill, the following be substituted, namely:—

"17. When any person has been convicted under clause (*d*) of sub-section (*1*) of section 16, the Court may direct that the jute in respect of which the offence was committed shall be forfeited to the Government and the Government shall in its turn do such acts or take such order with respect to the forfeited jute as to it may seem fit and proper."

Sir, section 17 refers to the destruction of jute grown without a licence. It reads thus:—

"When any person has been convicted under sub-clause (*d*) of clause (*1*) of section 16, the Court may direct that the jute in respect of which the offence was committed shall be destroyed, and may further order that the cost of such destruction shall be recoverable from such person as if it were a fine."

Now, Sir, I don't see any point in destroying the jute already grown. All that I want is that the jute should certainly be forfeited to the Government and the Government may do whatever it likes with the jute but not destroy it.

Mr. PRESIDENT: Amendment moved: that for clause 17 of the Bill, the following be substituted, namely:—

"17. When any person has been convicted under clause (*d*) of sub-section (*1*) of section 16, the Court may direct that the jute in respect of which the offence was committed shall be forfeited to the Government and the Government shall in its turn do such acts or take such order with respect to the forfeited jute as to it may seem fit and proper."

The Hon'ble Mr. TAMIZUDDIN Khan: Sir, I oppose the amendment. First of all, Government will have to make very elaborate and expensive arrangements for storing the forfeited jute. Another difficulty, Sir, is that supposing a man is convicted while the unauthorized

jute grown by him is immature, then Government will have to allow the illegal jute to grow, wait till maturity and then forfeit it. For all these reasons, I oppose it.

Mr. PRESIDENT: The question before the House is: that for clause 17 of the Bill, the following be substituted, namely:—

"17. When any person has been convicted under clause (*d*) of sub-section (*1*) of section 16, the Court may direct that the jute in respect of which the offence was committed shall be forfeited to the Government and the Government shall in its turn do such acts or take such order with respect to the forfeited jute as to it may seem fit and proper."

(The amendment was negatived.)

Rai Sahib INDU BHUSAN SARKER: Sir, I beg to move that clause 17 of the Bill be omitted.

Sir, this clause, if retained in the Act, will doubly penalise the erring cultivator. Already penalties have been provided under clause 16 for breach of any provision of the Act. The cultivator will have to pay that penalty in most cases out of the sale proceeds of his crop and the balance left to him will be a negligible quantity. If further, jute grown without a licence is destroyed by the Government, whence shall the poor cultivator pay his penalty fine? Either he will have to sell his land or to run into debts with the *mahajan*. I fail to understand how a Government that pose themselves as guardians of "Proja" interests could retain such a drastic provision in the Bill. I, therefore, urge upon the House to drop this clause altogether.

Mr. PRESIDENT: Amendment moved: that clause 17 of the Bill be omitted.

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, I oppose this amendment. The whole measure will to a very great extent be ineffective if this clause is accepted.

Mr. PRESIDENT: The question before the House is: that clause 17 of the Bill be omitted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 17 stand part of the Bill.

(The motion was agreed to.)

Clauses 18 and 19.

Mr. PRESIDENT: Clauses 18 and 19 stand part of the Bill.

The question before the House is: that clauses 18 and 19 stand part of the Bill.

(The motion was agreed to.)

Clause 20.

Mr. PRESIDENT: Clause 20 stand part of the Bill.

The question before the House is: that clause 20 stand part of the Bill.

(The motion was agreed to.)

Clauses 21 and 22.

Mr. PRESIDENT: Clauses 21 and 22 stand part of the Bill.

The question before the House is: that clauses 21 and 22 stand part of the Bill.

(The motion was agreed to.)

Clause 23.

Mr. PRESIDENT: Clause 23 stand part of the Bill.

Mr. E. C. ORMOND: Sir, this amendment stands in the name of myself and Mr. Scott-Kerr and seeks to change sub-clause (*1*) of clause 23.

Our group have expressed their attitude before now, which I need not repeat here, that they favour this kind of "previous publication" being inserted in the section where rule-making power is conferred. In regard to this particular measure this is an Act which will affect a great number of persons throughout Bengal and affect one of the most important, if not the most important, industries in the province and therefore, Sir, this group consider this a matter in which it would be meet and fitting that the rules should be published in draft form before they are enforced. There has been some misunderstanding in some quarters—a slight misunderstanding possibly—caused by the pointed remark of the Hon'ble Finance Minister on a previous occasion when he stated—or at any rate he stated as it is recorded in the record of the proceedings—that the condition of previous publication is

operative in every case, whether it is mentioned in the section conferring the rule-making power or not. The Hon'ble Finance Minister on that occasion, possibly under a misapprehension or possibly through a misunderstanding, stated that the Act which is the equivalent of the English Rules Publication Act, viz., the Bengal General Clauses Act, or rather, the provisions of the relevant section of that Act, only applies in all cases. But the fact is that it only applies when conditions such as this are inserted in the section conferring the rule-making powers. That is why, Sir, we wish to have it inserted. Now, I think there may be no difficulty whatever in regard to this or in regard to many of the amendments of this Bill in this House. The Hon'ble Minister in charge of the Bill has already intimated in regard to another matter that he would bring in an amending Bill and incorporate the substance of the amendment that was moved on a previous occasion in the amending Bill. If the Hon'ble Minister would be so good as to meet us to that extent and give us an assurance that he will put this amendment or the effect of this amendment in an amending Bill, we, Sir, shall not insist on altering the Bill at the present moment.

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, I accept the principle of this amendment. There is another amendment of the same nature, No. 216. From the drafting point of view that seems to be more appropriate. However, we are not going into that question just now. I have already stated that the Government accept the principle of this amendment and at the earliest opportunity, when an amending Bill is brought, this will be incorporated in that Bill. I think with this assurance my friend will be pleased to withdraw the amendment.

Mr. PRESIDENT: He has not yet moved it.

Mr. E. C. ORMOND: May, I, Sir, in those circumstances withdraw the amendment?

Mr. PRESIDENT: Mr. Ormond, I think you did not move it, but simply wanted an assurance from the Hon'ble Minister. The assurance is on record.

Mr. E. C. ORMOND: All right, Sir.

Mr. PRESIDENT: Rai Sahib Indu Bhusan Sarker, yours is similar to the previous one of Mr. Ormond and the Hon'ble Minister has given an assurance that he will soon bring an amending Bill and incorporate the correction sought by this as well as the other amendment of Mr. Ormond.

Rai Sahib INDU BHUSAN SARKER: Then, Sir, I beg leave of the House to withdraw my amendment.

Mr. PRESIDENT: You have not yet moved it; so the question of the leave of the House does not arise.

(After a pause.) I am sorry, there was some misapprehension in my mind with regard to this amendment. Now I find that the wording here is quite different from the one that appears in Mr. Ormond's amendment (No. 214). Here, the difference is that rules are to be made "subject to the approval of the Provincial Legislature". This is a little bit different from the assurance given by the Hon'ble Minister. So, you may move your amendment.

Rai Sahib INDU BHUSAN SARKER: Sir, I beg to move that in sub-clause (*1*) of clause 23 of the Bill, after the word "rules" in line 1, the words "subject to the approval of the Provincial Legislature" be inserted.

Sir, what I suggest here is that the rules that shall be framed under the Act should be presented to the Legislature for its approval. Very wide powers have been sought to be conferred under the rules; so, it is only just and proper that the Legislature should have its say on the matter before it gives its final seal on them. With these words, I commend my amendment to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 23 of the Bill, after the word "rules" in line 1, the words "subject to the approval of the Provincial Legislature" be inserted.

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, I have already given an assurance with regard to another amendment which though not exactly the same is of a similar nature. So far as this is concerned, I will consider the matter later on, but just at the present moment, I cannot give an assurance like what I have already given in connection with the amendment of Mr. Ormond. Therefore, I think that instead of getting this motion decided upon just now, if my friend be pleased to withdraw it, we may consider it later on whether this may be accepte

Rai Sahib INDU BHUSAN SARKAR: In view of the assurance given by the Hon'ble Minister, I beg leave of the House to withdraw my amendment.

(The motion was then, by leave of the House, withdrawn.)

Mr. LALIT CHANDRA DAS: I beg to move that after paragraph (*u*) of sub-clause (*2*) of clause 23 of the Bill, the following paragraphs be added, namely:—

"(*v*) provision for fixation of minimum price of jute;

(*w*) provision for warehouses for storage of bales of jute of the jute-growers of the province and of financing them; and

(*x*) provision for marketing."

By rule 23, power has been taken by Government to make rules on various matters but the most essential thing has not been tackled, namely, power has not been taken by the Government for the purpose of fixing the minimum price of jute, the main object of the Bill being to give the best price to the jute-growers. I, therefore, urge that rule-making power should be taken by Government for the purpose of fixing the minimum price of jute and also for the purpose of making provisions for warehouses for the storage of jute of the jute-growers of the province, as well as for the purpose of making provisions for marketing. With these words, I beg to move my amendment.

Mr. PRESIDENT: Amendment moved: that after paragraph (*u*) of sub-clause (*2*) of clause 23 of the Bill, the following paragraphs be added, namely:—

"(*v*) provision for fixation of minimum price of jute;

(*w*) provision for warehouses for storage of bales of jute of the jute-growers of the province and of financing them; and

(*x*) provision for marketing."

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, I have to oppose this amendment. To my mind an important and far-reaching provision like this cannot be inserted in a Bill through the back-door in the manner my honourable friend proposes. Moreover, there are no provisions for these things at all in the body of the Bill and no rule-making power can be given with regard to these matters.

Mr. PRESIDENT: The question before the House is: that after paragraph (*u*) of sub-clause (*2*) of clause 23 of the Bill, the following paragraphs be added, namely:—

"(*v*) provision for fixation of minimum price of jute;

(*w*) provision for warehouses for storage of bales of jute of the jute-growers of the province and of financing them; and

(*x*) provision for marketing."

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 23 stand part of the Bill.

(The motion was agreed to.)

Short Title and Preamble.

Mr. PRESIDENT: The question before the House is: that the short title and preamble be added to the Bill.

(The motion was agreed to.)

The Hon'ble Mr. TAMIZUDDIN KHAN: I beg to move that the Bill is as settled in the Council be passed.

Sir, I do not like at this stage to make anything like a speech in moving this motion. What I would like to say is this: that my heart-felt thanks are due first of all to you, Mr. President, and secondly, to all the members of this House, particularly those who have helped the Government in passing this Bill as quickly as possible. Without your help and co-operation, Sir, this Bill could not have been passed in this House within such a short time. I am really grateful to you and to the whole House.

I have already stated in my initial speech, while moving the motion for the consideration of the Bill, what Government's intention is. It is to prepare a new record of the lands on which jute is going to be sown. If we take immediate action, which we propose to do, I hope that the record that will be now made will be fairly correct and any action to regulate the crop of 1941 that may be thought necessary to be taken, will be possible to take on the basis of that record. I have already stated that the regulation of production is the most important problem in connection with the jute crop. If we can successfully adjust the production of jute to the probable world demand, then we will have crossed the most difficult hurdle. There are other difficult questions, namely, the question of fixing a minimum price of jute and also the question of providing warehouse facilities, for storing of the jute during the season in warehouses and for advancing at least a part of the money to the jute-growers, so that jute so stored may be sold at a time when it will bring the best price possible. All these are questions which are being examined by Government and necessary action will be taken as early as possible. The whole House, and for the matter of that the whole country, is anxious that the problem of jute may be satisfactorily solved. Government is also equally anxious to do so with the co-operation of all concerned. I think that with that co-operation forthcoming, Government will be able to take all steps necessary for solving the problem of jute satisfactorily.

With these few words, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Motion moved: that the Bengal Jute Regulation Bill, 1940, as settled in the Council, be passed.

Mr. KAMINI KUMAR DUTTA: On behalf of my party, I would like to explain our attitude and position with respect to this Bill. So far as the principle underlying this Bill is concerned, my party give their full support to it. Jute is practically the only crop by the export of which money is brought into our country and in order to enable the cultivator to get the best price from the market, certainly it is essential that its growth should be regulated. This Act is practically an enabling Act by which Government are taking power to prepare a record and then enforce the principle of regulation, if they think fit. Of course, from the Bill as it now stands it does not follow that they will frame regulations immediately; they will only prepare the records immediately.

Though we fully support the principle underlying the Bill, we would like to sound a note of warning to the Government that simple regulation of production will not bring in the millenium. It will not fetch the proper price to the growers. Certainly, it is one of the cardinal principles that the price of any commodity must be commensurate with the demand. The figures available show that the price of jute has declined even in those years in which the growth has been rather very small. An analysis of these factors would show that a large portion of the money which really ought to have gone to the growers has gone to the pocket of unscrupulous speculators, those who intervene between the manufacturer and the grower. Unless the State is prepared to take drastic steps to stop speculations in the market—it is really the middlemen who suck the growers of their legitimate dues—all these measures would be useless. We can only suggest at this stage that as regards marketing, the State should give their full attention to that problem and some provision ought to be made for putting a stop to the nefarious activities of the speculators.

Mr. HUMAYUN KABIR: I should like to congratulate the Hon'ble Minister that it was his good fortune to pilot this Bill smoothly through both Houses of the Legislature. Nobody can deny that jute is one of the most important problems in Bengal and if jute can be controlled in Bengal, the conditions of the cultivators of Bengal can be radically transformed. In this direction this Bill marks only a small step, as the Hon'ble Minister has himself admitted, but we welcome this step, because it is a step in the right direction.

We have always held that there must be control of the price to ensure a fair price to the cultivators of jute and if for this purpose regulation is necessary, we shall welcome such regulation. What we want to place before him, particularly now when the Bill is being considered in its last stage by this House, is that regulation by itself is not enough. It has not yet been proved that the supply of jute will exceed the demand. All the avenues of the best use of jute have not yet been explored. If all the possible avenues are to be explored, regulation by itself will be still less adequate. Thereafter, Government while they are perhaps right in emphasising that regulation should be more strict, should also see that marketing to which attention has been drawn by the Leader of the Opposition is controlled. If marketing is controlled and if Government take the initiative in seeing that the jute produced in the province is stored centrally, distributed centrally, and sold through Government control, then that alone can perhaps ensure a fair price to the cultivators.

This also brings up the question of the elimination of middlemen. There is no doubt whatsoever that the cause of the misery of the jute cultivators is that the middlemen take away all the profit. Attempts have been made in many countries to produce other crops in place of jute. But those attempts have failed, because people there were not prepared to undertake the difficult and arduous labour which the production of jute requires. Therefore, for all practical purposes jute will remain the monopoly of Bengal, at least for as long as we need consider. In these circumstances, Government will be definitely failing in their duties to the people unless they can ensure a fair and minimum price of jute.

The most important problem with regards to jute is the question of fixing the minimum price and unless this is done, then the other Bills which might be passed, will not be of much use. However in that direction Government have committed themselves and the Hon'ble Minister to-day has stated that Government will examine at the earliest possible opportunity the question of fixing the minimum price of jute and also the question of ensuring facilities for marketing, warehouses, etc.

We shall welcome this move and watch with anxiety the steps which Government may take in the matter. Sir, sometimes we have felt it necessary to oppose the Government, but here I would like to assure the Hon'ble Minister that in any step which the Government might take in order to do good to the cultivators they will have the wholehearted support of the Opposition and in anything which aims at improving the condition of the peasantry of Bengal they will have our unqualified support.

Mr. K. C. ROY CHOWDHURY: Mr. President, Sir, I agree with every word that has been said by my friend Mr. Dutta and particularly with that aspect of the matter, viz., removal of the greatest menace to the jute industry and jute business caused by the speculative elements. Sir, it is perfectly scandalous for a Government to allow unrestricted gambling in jute by the *fatkawallas*. The newspapers have mentioned it hundreds of times. The speculators have no connection with jute cultivation, no connection with jute mills and some of them have never seen even a bale of jute. Still, they can inflate the price to any length they like and they can likewise deflate also. The *fatka* operation which has been declared even by the High Court Judges as a wagering transaction must be removed and Government will have to take steps to remove it, the sooner the better, for the protection of the *raiyats*, the consumers and the merchants.

Mr. KADER BAKSH: Mr. President, Sir, I have only a few words to say. I have full sympathy and am in concurrence with the remarks which have been made by the Leader of the Opposition, Mr. Kabir and Mr. Roy Chowdhury. But one fact, Sir, has not been mentioned by any one. Sir, restriction of production there will be by the operation of this Act, no doubt. But what to do with the areas where no jute is to be grown on account of the restriction enforced by this Bill? What I suggest is that there should be an alternative crop cultivated in those lands, so that the people may not remain idle nor the lands remain fallow. There is that important duty on the part of Government to devise ways means as to how to bring in some substitute crop for those lands which will be restricted. So, Sir, I may also appeal to the Government and the Hon'ble Minister in charge to look into the question and to consider what kind of crop may be cultivated in those areas because, as you know, Sir, fully well, the cultivators in the interior are helpless people. They do not know what kind of crop will be for their benefit and for the benefit of the country as a whole. So, I suggest that some attempts or steps should be taken by Government for the utilization of those lands where cultivation of jute is to be restricted.

Mr. W. F. SCOTT-KERR: Mr. President, Sir, the European party have supported this Bill through all its stages. The reason why they have done so is because they are in sympathy with the objects of the Bill, which are to secure to the *raiyat*—to the cultivator—a fair and steady price for his jute. There is no one who would be more gratified than we to see this object achieved. At the same time, there are a few points in the Bill to which I should like to call the attention of the House as there are undoubtedly pitfalls in it for the

unwary. I do not want to say anything which may be construed as being in the nature of destructive criticism—a thing which it is very easy to do but which is of little assistance.

The first point that I should like to mention is that this is a Jute Regulation Bill—it is not a Jute Restriction Bill. Now, there seems to be a tendency amongst various sections of the community to think and take it for granted that it will be the Government's policy to restrict cultivation of jute in order to raise its price. If that is going to be their policy, Sir, I should say that it is a very short-sighted policy and that it might in time cause chaos in up-country markets. There must be occasions when Government will not have to restrict sowings, but to increase them. As the honourable members are probably aware, the demand for jute and the price of it vary in inverse ratio. As the price rises, the demand falls off, and *vice versa*.

Now, any attempt to squeeze the supply of jute and raise the price would simply mean that the demand was going to fall, and fall very considerably. We have had experience of that during the last three or four months, when the price of jute has fallen from Rs. 120 a bale to Rs. 65 a bale. That is one point, which I should like to make.

Another point on the same lines is the agitation to fix a minimum price for jute. There, again, you have the question of demand to look to and to remember that the demand for jute decreases again as the price rises. You have got to remember also that 40 per cent. of the jute crop is exported. Although the trade in India would loyally co-operate in a movement designed to ensure to the *raiyat* a fair price for his jute, Government in addition, would have to instil the same philanthropic motives into those foreign markets which consume 40 per cent. of the crop. And, Sir, any hitch in the movement of jute during the season and a hold-up of supplies and the consequent accumulation of stocks would mean very difficult financial times to those up-country people who are holding it and probably result in a chaotic market. During the season jute has got to move, and if export markets refuse to pay the minimum price demanded by Government and there is a hitch in the movement of the crop, you would have, as I have said, a very difficult time up-country, and the stocks of jute there might have to be sold off at famine prices. We are glad to hear that the Hon'ble Minister has admitted that there would be little object in proceeding with the Bill or the scheme contemplated in it unless there is prospect of full co-operation from the adjacent provinces. That is most essential. Obviously, to restrict or regulate the production of the crop at Bengal's expense would bring in more profit to those provinces than they would otherwise receive. There is already a tendency in the various adjacent provinces to increase their crops and we should be cutting off our nose to spite their faces if we regulated our crop without being assured of their co-operation

Now, the way the scheme will be worked is that Government would estimate towards the end of the year the demand from world markets and attempt to regulate the crop accordingly. The demand for jute, as you probably know, Sir, depends very largely on crops in other parts of the world. Jute manufactures or products are used as containers and the demand for these containers varies according to the size of those crops. In December, Government are going to tell us what the demand is going to be in the period June-July of the year following, that is, 18 months ahead. I cannot tell you now, Sir, how many hours the mills here are going to work two or three months ahead. That is one difficulty that I should like to point out.

Again, as regards the supply, Government are going to regulate supply in December and they are going to say then how much jute should be grown. As you all know, the growth of jute depends on weather conditions and an early or late monsoon or early drought or early rain may have a very appreciable effect on the size of the crop. This has all to be forecasted. The accuracy of these forecasts is vital. Government forecasts at the moment are the two annual jute forecasts, on which not only they but also the public have relied all these years. The final outturn forecast takes place in September, when 70 per cent. of the jute grown has been cut. It may interest the House to know that during the last 20 years jute crops have been under-estimated to the extent of 270 lakhs of bales or three complete jute crops. I simply point this out by way of an example to show that even at that time of the season when 70 per cent. of the crop has been cut, how difficult it is to say how much jute there is or is likely to be, let alone six months earlier before the jute is cut.

The only other remark, Sir, which I want to make is on the lines of some of those who have already spoken. Those speakers have suggested the abolition of the *fatka* or speculative market. It is still a matter of conjecture whether the passing of this Bill into a Statute would stop fluctuations in the legitimate jute market. Do Government consider that if this scheme had been working here last year, it would have stopped the rise in the price of jute from Rs. 40 to Rs. 120 per bale and the fall from Rs. 120 to Rs. 65 per bale? I do not know of any jute regulation scheme which would have stopped that.

I recommend for Government's consideration that the *fatka* market is the market to deal with first; it is a very definite menace to the whole of the trade. (Cries of "Hear, hear" from Congress benches.) Sir, I have nothing further to say. I do not wish that what I have said should be taken as anything more than pointing out some of the difficulties that appear in the Bill and which need attention.

We support the Bill. We agree with its objects and reasons, and if it achieves its object it goes forward with our blessing and with our full support.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Mr. President, Sir, at the outset I must offer my heartiest congratulations to the Hon'ble Minister for having piloted this controversial Bill within such a short time. This Bill is a most important one. We did not expect that it would be possible for Government to have it passed during this session of the Legislature. So far as the principles of the Bill are concerned, our party cannot but generally support them. As a matter of fact, we feel that this Bill has been long overdue. It should have been introduced long ago. Nevertheless, I congratulate the Hon'ble Minister not only on behalf of my party but also on my account for the courage that he has shown in tackling this contentious problem. As has been said by many honourable members, unless some arrangement is made for the control of speculation, the principal object of the Bill would not be achieved. Again, if the Government do not move the Governments of Bihar, Orissa, and Assam for some sort of co-operation in the matter of restriction and regulation, this measure would prove in the long run to be a failure. The real object would be frustrated. And, therefore, I would request the Hon'ble Minister to see that some arrangement is made with the other neighbouring provinces as regards regulation.

I am also thankful, Sir, for the announcement that warehouses would be built and opened for the proper storage of jute—this is necessary for the temporary storing of jute till a suitable opportunity arrives for selling it at a higher price. These warehouses are very urgently required. I think, Sir, this is one of the most important things which should be looked into.

Sir, as some of the previous speakers have already said, I very much doubt whether it would be possible to fix a minimum price for jute.

Mr. PRESIDENT: Order, order. Is the honourable member likely to take more time than a minute or so? It is nearly 4-30 p.m.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: I hope to finish in about 4 or 5 minutes.

Mr. PRESIDENT: But you are merely repeating your own arguments.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Fixation of a minimum price of jute is, in our estimation, required. The fixation of a minimum price will mean that it will go to the cultivators. Our aim should be to see that the middlemen do not take advantage of the cultivator and make profit thereby. As the time is very short, I do not wish to take any more time. I again congratulate the Hon'ble Minister for piloting the Bill and for being able to get the support of the Coalition party. I am glad to know that in a short time after he has gained some experience as to the effect of this measure, he will bring in an amending Bill on the lines suggested in our amendments. Though those amendments have been lost, I am glad to find that the Hon'ble Minister has taken note of them.

The Hon'ble Mr. TAMIZUDDIN KHAN: As I am anxious to finish, I am afraid I will not be able to refer to all the points that have been raised in this debate. It is gratifying to find that there is an almost practical unanimity so far as the principles of the Bill are concerned. Government will take into consideration the suggestions that have been put forward on the floor of this House. In fact, I may say that the points that have been raised are already exercising the mind of the Government. My honourable friend Mr. Scott-Kerr has pointed out certain difficulties. These are the difficulties which we shall have to face. The position of Government now is that they are not prepared to go back on account of these difficulties; they are willing to go forward and solve these difficulties satisfactorily, and I hope with the co-operation of all, Government will be able to solve them. Simple regulation may not be the best solution of the problem. In certain circumstances, simple regulation may be of use, but in all circumstances it cannot be so and other courses will have to be taken as has been indicated on the floor of this House. I give this assurance that Government will examine the question from all points of view and will leave no stones unturned to meet the situation. Government have addressed the other Provincial Governments concerned and a date has been fixed in consultation with the Bihar Government for a conference of the three Governments on the 9th April to consider the question.

As regards substitute crops for jute, it is not a live issue because in this Bill it has been provided that the areas where only jute can be grown will be separately recorded and there would be no restriction in those areas; there would be restriction in those areas only where other crops can be grown. Therefore, that question has been somewhat solved. Still, the Agriculture Department are always trying to find out what new crops are best suited to the soil of Bengal. This

general question has been under examination for a long time. I am afraid, I ought not to take any more time of the House. I again thank the honourable members of this House for according their support to this Bill.

Mr. PRESIDENT: The question before the House is: that the Bengal Jute Regulation Bill, 1940, as settled in the Council, be passed.

(The motion was agreed to.)

Order, order. The Council stands adjourned till 2-15 p.m. to-morrow.

Adjournment.

The Council then adjourned till 2-15 p.m. on Thursday, the 28th March, 1940.

Members absent:

The following members were absent from the meeting held on the 27th March, 1940:—

(1) Mr. Hamidul Huq Chowdhury.
(2) Mr. Humayun Reza Chowdhury.
(3) Khan Bahadur S. Fazal Ellahi.
(4) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(5) Nawabzada Kamruddin Haider.
(6) Mr. Mohamed Hossain.
(7) Khan Bahadur Syed Muhammad Ghaziul Huq.
(8) Maulana Muhammad Akram Khan.
(9) Mr. H. G. G. MacKay.
(10) Dr. Radha Kumud Mookerji.
(11) Rai Bahadur Satis Chandra Mukherji.
(12) Mr. J. B. Ross.

B. G. Press—1940-41—1930A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Buildings, Calcutta, on Thursday, the 28th March, 1940, at 2-15 p.m. being the sixteenth day of the First Session, pursuant to section 62 (2) (a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Promotion of inkman, machineman and assistant foreman in the Bengal Government Press.

74. Khan Sahib ABDUL HAMID CHOWDHURY (on behalf of Mr. K. C. Roy Chowdhury): (a) Will the Hon'ble Minister in charge of the Finance Department be pleased to state if it is a fact that in a Government Press an inkman is promoted to machineman, a machineman to an assistant foreman and an assistant foreman to a foreman?

(b) Is it a fact that recently in the Government of Bengal Press some inexperienced new hands were appointed as assistant machinemen and foremen superseding the claims of the old experienced hands in the employment of the Press?

(c) Is it not a fact that only persons having practical knowledge of printing and machinery are appointed as foremen from amongst the machinemen?

(d) Will he please state if the persons appointed during last two years as assistant foremen and foremen had any practical knowledge of printing and machinery?

(e) If answers to parts (a) to (d) are in the affirmative, will the Hon'ble Minister be pleased to state what steps have been taken or are intended to be taken in this matter? If not, why not?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Mr. H. S. SUHRAWARDY): (a) Inkmen are promoted to the post of a machineman if they are capable of doing the work of a machineman and their attendance and conduct are satisfactory.

A machineman is eligible for promotion to the post of Assistant Foreman provided he is efficient, his service, attendance and conduct are satisfactory and he is capable of supervising and controlling the staff of the Machine Department.

An Assistant Foreman is eligible for promotion to the post of a Foreman provided he has the necessary qualifications and ability required for the post.

(*b*) No.

(*c*) and (*d*) Yes.

(*e*) Does not arise.

Appointment of price-controlling officers in Jessore district.

75. Khan Sahib ABDUL HAMID CHOWDHURY (on behalf of Mr. K. C. Roy Chowdhury): (*a*) Will the Hon'ble Minister in charge of the Commerce and Labour Department be pleased to state if price-controlling officers have been appointed in Jessore district?

(*b*) If the answer to paragraph (*a*) be in the affirmative, what are their names?

(*c*) How many markets and shops have been inspected in the district by those officers?

(*d*) Have prices of commodities been fixed anywhere in the district?

(*e*) If so, how many persons have been prosecuted for selling commodities in excess over the fixed prices?

(*f*) What are their names and places of their residence?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (on behalf of the Hon'ble Mr. H. S. Suhrawardy): (*a*) and (*d*) Yes.

(*b*) Government have appointed the District Magistrate, Jessore, as the Controller of Prices for that district. He is assisted by the Sub-divisional Officers in their respective jurisdictions.

(*c*) I am not able to give the exact figure but most of the markets and shops have been inspected by those officers, as well as by the Circle Officers.

(*e*) and (*f*) As no case of profiteering has come to light, there has been no need to prosecute any person.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state if it is a fact that the prices generally have risen by 25 per cent.?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: There is a downward tendency at present. The prices went up but they are coming down.

Jute records in accordance with the Bengal Jute Ordinance.

76. Rai Bahadur MANMATHA NATH BOSE (on behalf of Rai Sahib Indu Bhusan Sarker): (*a*) Is the Hon'ble Minister in charge of the Agriculture and Industries Department aware that great unrest has been created in the *mufassil* as a result of the perfunctory way in which jute records have been recently prepared in accordance with the Bengal Jute Ordinance?

(*b*) Is it a fact that the names of the many cultivators who actually grew jute last year have been omitted from the records prepared and that these persons have so far failed to get their names recorded although they applied to the local authorities?

(*c*) Is it a fact that 7 days' time-limit for correction of records is extremely insufficient?

(*d*) Is it a fact that notices are generally left in the Union Board Office instead of being delivered to the persons concerned with the result that the cultivators do not get them in time?

(*e*) Will the Hon'ble Minister be pleased to state what the Government intends to do with regard to the jungle lands which have been reclaimed this year and which are most suited for jute cultivation or the *char* lands which have now become fit for jute cultivation?

(*f*) Is the Hon'ble Minister aware that for insufficient supply of one anna court-fee stamp, cultivators are being compelled to file objections with court-fee stamp of higher denominations lest the limited period should be over?

(*g*) Is it a fact that objections filed by cultivators for the correction of records are not being properly attended to by the officers concerned? If so, what steps does the Government propose to take in the matter?

(*h*) Does the Hon'ble Minister consider the desirability of entertaining the objection petitions submitted after due date as the illiterate cultivators could not understand the gravity of the situation created by the Jute Ordinance?

(*i*) Have the temporary services under Jute Ordinance been dispensed with? If not, when are these services going to be dispensed with and for how many months those temporary hands worked?

MINISTER in charge of the AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Mr. Tamizuddin Khan): (*a*) to (*h*) As Government have, at the instance of all parties in the Legislative Assembly, reluctantly abandoned their proposal for the regulation of the jute crop of 1940 on the basis of the record prepared of lands under

jute in 1939, I do not propose to reply in detail to the various points raised in these parts of the question. I would only say that while I cannot and do not claim that the record that was made was perfect, I still believe that its defects were not of such a nature as to make it totally unsuitable as a basis for regulation.'

(*i*) The temporary staff employed for the preparation of the record have been discharged except such of them as are required for the winding up of the scheme and closing the accounts.

The staff was recruited as required and discharged when the work allotted to the various individual members was completed. There was no uniform period of service for all.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state what was the expenditure incurred by Government for this temporary staff?

The Hon'ble Mr. TAMIZUDDIN KHAN: I want notice.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether persons serving in temporary capacity will have a chance now of reappointment for taking measurement of jute-growing lands?

The Hon'ble Mr. TAMIZUDDIN KHAN: Yes; not that all of them will be reappointed, but their cases will be considered along with those of other candidates.

Mr. KADER BAKSH: Will the Hon'ble Minister be pleased to state if it is a fact that Rs. 7 lakhs were spent for the jute survey on the last occasion?

The Hon'ble Mr. TAMIZUDDIN KHAN: Yes, about that amount.

Notices given by the Hon'ble Ministers of amendments in regard to non-official Bills.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I have the honour to give notice of the following amendment to the motion of Rai Surendra Narayan Sinha Bahadur that his Bengal Abolition of Dowry Bill be taken into consideration:——

That the Bill be recommitted with instructions to submit the report by the 29th July, 1940, and that the quorum of the Select Committee be fixed as before.

I beg also to give notice that I intend to move the following amendment with regard to the motion to be moved by Mr. Nur Ahmed that the Bengal Suppression of Immoral Traffic (Amendment) Bill, 1938, be referred to a Select Committee; and that in place of Mr. D. H. Wilmer, Mr. W. B. G. Laidlaw be appointed in the Select Committee.

The Hon'ble Mr. TAMIZUDDIN KHAN: I beg to give notice that at the current session of the Bengal Legislative Council I shall move by way of amendment to the motion for consideration of the Bengal Water-hyacinth (Amending) Bill, 1938, by Khan Bahadur Saiyed Muazzamuddin Hosain that the Bill be referred to a Select Committee consisting of—

(1) Khan Bahadur Saiyed Muazzamuddin Hosain,
(2) Mr. E. C. Ormond,
(3) Mr. Kamini Kumar Dutta,
(4) Rai Bahadur Radhica Bhusan Ray,
(5) Mr. Lalit Chandra Das,
(6) Mr. Amulya Dhone Roy,
(7) Khan Bahadur Maulvi Rezzaqul Haider Chowdhury,
(8) Khan Bahadur Mukleswar Rahman,
(9) Rai Sahib Indu Bhusan Sarker,
(10) Mr. Khorshed Alam Chowdhury, and
(11) the mover,

with instruction to submit their report by the 31st July, 1940, and that the quorum for the Select Committee be fixed at five.

The Bengal Non-Agricultural Tenancy (Temporary Provisions) Bill, 1940.

Mr. PRESIDENT: The House will now consider the Bengal Non-Agricultural Tenancy (Temporary Provisions) Bill, 1940.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that the Bill be taken into consideration.

Mr. PRESIDENT: Motion moved: that the Bengal Non-Agricultural Tenancy (Temporary Provisions) Bill, 1940, be taken into consideration.

(After a pause.) The question before the House is: that the Bengal Non-Agricultural Tenancy (Temporary Provisions) Bill, 1940, be taken into consideration.

(The motion was agreed to.)

Clause 1.

Mr. PRESIDENT: Clause 1 stand part of the Bill.

The question before the House is: that clause 1 stand part of the Bill.

(The motion was agreed to.)

Clauses 2, 3 and 4.

Mr. PRESIDENT: Clauses 2, 3 and 4 stand part of the Bill.

The question before the House is: that clauses 2, 3 and 4 stand part of the Bill.

(The motion was agreed to.)

Clauses 5, 6, 7 and 8.

Mr. PRESIDENT: Clauses 5, 6, 7 and 8 stand part of the Bill.

The question before the House is: that clauses 5, 6, 7 and 8 stand part of the Bill.

(The motion was agreed to.)

Preamble and Short Title.

Mr. PRESIDENT: The question before the House is: that the Preamble and the Short Title be added to the Bill.

(The motion was agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move: that the Bengal Non-Agricultural Tenancy (Temporary Provisions) Bill, 1940, as settled in the Council, be passed.

Mr. PRESIDENT: Motion moved: that the Bengal Non-Agricultural Tenancy (Temporary Provisions) Bill, 1940, as settled in the Council, be passed.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, this is a controversial subject but in view of the fact that it is a temporary measure intended to stop the execution of ejectment decrees and pending examination of

the entire question, I do not think we should raise some of the points which are involved in this Bill. On that understanding, we think that the House would support the Bill.

Mr. PRESIDENT: The question before the House is: that the Bengal Non-Agricultural Tenancy (Temporary Provisions) Bill, 1940, as settled in the Council, be passed.

(The motion was agreed to.)

The Bengal Tenancy (Third Amendment) Bill, 1939.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that the Bengal Tenancy (Third Amendment) Bill, 1939, as reported by the Select Committee, be taken into consideration.

Mr. PRESIDENT: The question before the House is: that the Bengal Tenancy (Third Amendment) Bill, 1939, as reported by the Select Committee, be taken into consideration.

(The motion was agreed to.)

Clause 1.

Mr. PRESIDENT: Clause 1 stand part of the Bill.

(After a pause.) The question before the House is: that clause 1 stand part of the Bill.

(The motion was agreed to.)

Clause 2.

Mr. PRESIDENT: Clause 2 stand part of the Bill.

(After a pause.) The question before the House is: that clause 2 stand part of the Bill.

(The motion was agreed to.)

Clause 3.

Mr. PRESIDENT: Clause 3 stand part of the Bill.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: May I suggest one thing? Amendments (Nos. 3-11) refer to the elimination of the sub-clause (*1*) of clause 3, altogether. So, before taking up amendment No. 2 which wants to make certain modifications only, I think amendments Nos. 3-11 should be taken first.

Mr. PRESIDENT: That is correct.

Rai MANMATHA NATH BOSE Bahadur: I beg to move that sub-clause (*1*) of clause 3 of the Bill be deleted and sub-clauses (*2*) to (*5*) thereof be renumbered accordingly.

Sir, in doing this I beg to submit that a pure mortgage by a conditional sale does not require delivery of possession to be made to the mortgagee. The definition is to be found in clause (*c*) of section 58 of the Transfer of Property Act. The definition begins with the expression that "where the mortgagor ostensibly sells the mortgaged property" and then lays down three conditions none of which speaks of possession. Yet the words used within brackets indicate that a pure mortgage by conditional sale is intended to be prohibited. Thus, there has been a contradiction in terms in the clause proposed.

A mortgage by conditional sale, where possession is delivered is a combination of usufructuary mortgage and mortgage by conditional sale, or an anomalous mortgage. In legal parlance, it is known as mortgage usufructuary by conditional sale. In such a mortgage the mortgagee is in possession as usufructuary mortgagee for a fixed period and if the debt is not discharged at the expiry of that period he is a mortgagee by conditional sale. The Privy Council case of Abid Husain *versus* Kaniz Fatima reported in I.L.R. 46 Allahabad 269 and the case of Sitanath *versus* Thakurdas reported in the Indian Law Reports, 46 Calcutta 448 are instances of this class. I am inclined to believe that what the Government had in mind was probably a mortgage of this class. But the expression used here does not convey this idea

What is meant by "Possession of land is delivered to the mortgagee"? Suppose, Sir, "A" an occupancy-*raiyat* executes a simple mortgage or a pure mortgage by conditional sale in favour of "B". In the mortgage bond it is stipulated that "B" will be given lease of the land as an under-*raiyat* and the rent payable by "B" is to be appropriated by "B" towards the dues of the mortgage bond, so long as the dues are not satisfied. Now, Sir, would you call it "possession of land is delivered to the mortgagee"? Here possession is no doubt delivered to the mortgagee but not in the same right. It is an expeditious method of paying off the dues of "A". Is this also to be tabooed?

If possession by the mortgagee is so bad, let the mortgagor get back his holding or tenure by all means; but I do not understand why the mortgage debt should be extinguished if it is not actually so out of the profits received from the property. If the Government wishes to be fair to all the parties concerned, why can it not agree that the portion of the mortgage money not yet actually satisfied by possession would be recoverable from the mortgagor? I should like to know

under what system of jurisprudence or on what principle is the Government partial to the debtor and unfair and unjust to the creditor.

Sir, the present amendment seeks to give retrospective effect to every mortgage including a mortgage by conditional sale. To my mind, this is unfair to the creditors. In all fairness they should be given some time for withdrawing the money lent. If they are compelled to give up possession why extinguish the debt at the same time? Why not grant them opportunities and facilities to realise their debts?

The amendment made in 1938 has not been made long enough to enable a person to judge of its effect. Is it not desirable to wait for a few years more and see what effect is produced in the country by the operation of the statute?

Sir, I have made some observations in connection with this matter in my minute of dissent. I do not wish to repeat those observations here. I hope, the Hon'ble Revenue Minister will kindly consider what I have said and try to distribute even-handed justice between a debtor and a creditor. On these grounds, Sir, I am of opinion that the clause should be deleted.

Mr. PRESIDENT: Amendment moved: that sub-clause (*1*) of clause 3 of the Bill be deleted and sub-clauses (*2*) to (*5*) thereof be re-numbered accordingly.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I rise to oppose this motion. My honourable friend seems to labour under a misapprehension that these mortgages are of the nature of sale deeds, as is evident from his minute of dissent. If really they are sale deeds, the provisions of the Act will not at all apply to them. It is definitely mentioned that it will apply only to mortgages which are mortgages by conditional sale and which are at the same time mortgages of a usufructuary nature. If they are mortgages, the provisions of the Bill will apply and so no question of expropriation or no question of retrospective effect can arise because, Sir, according to the Money-lenders Act which we passed the other day, the debt is extinguished when an amount equal to twice the principal is paid. When the interest equal to the principal and the whole principal are paid, the whole debt is extinguished, according to the law of *Damdupat*. Even in the old Money-lenders Act the provision was there to that effect. It is not a new thing. Sir, what I say is that if they are mortgages, even according to the ordinary Money-lenders Act they will become automatically redeemed after six years or so, because according to the Bengal Banking Enquiry Report we find that the rate of interest prevalent for loans given to agriculturists is ordinarily 37·5 per cent. At that rate, Sir, the money will be doubled in six years. The mortgagee who takes it as usufructuary mortgage by conditional sale is certain to make sure that he is getting

at least his interest according to the ordinary rate prevailing in the country. That being so, Sir, if he makes sure about 37·5 per cent. interest, it is clear that within six years from the usufruct of the land he will get double as much as the principal. So, automatically, according to the Money-lender Act, these debts would be extinguished. But we want that the poor agriculturist should not be sent to court in every case to prove how much of the usufruct has actually gone towards the clearance of debt, which will be very difficult for a poor agriculturist to prove, especially when he is to prove it against the money-lender who in turn will come with his long purse and is bound to win in the long run. To obviate this difficulty, we have devised a short-cut method. We, at the same time, have made sufficient consideration for the creditor because instead of six years we have made it 15 years or any shorter period which is mentioned in the document. The ordinary period in the document is 9 to 15 years in the case of mortgages of this nature. So, sufficient consideration has been made in favour of the creditors when we have said that the maximum period will be 15 years.

On account of the low prices which certainly occur sometimes, it is only necessary and fair that some consideration should be made for the creditor and for that reason some provision has been made in the Act. Instead of 6 years it has been fixed at 15 years or any shorter period which is noted in the document. Sir, I do not understand why these *katkabalas* or usufructuary mortgage by conditional sale should be considered at all as sale deeds, as has been mentioned in some of the minutes of dissent. I think, Sir, no purchaser would purchase any land on payment of the full price if there be a condition that he is to return it any time within that period, if the debtor comes and pays only the principal. No purchaser will be such a fool as to purchase a land in that way without being sure that he was getting a proper return for the money which he had lent. So I say, Sir, it is not at all a case of purchase but it is a case of mortgage and in the eye of law it is so. And it is to mortgages only that these provisions of the law will apply. Sir, in the case of the incomplete usufructuary mortgages of even 99 years, we have applied a similar law and the whole debt will be extinguished after 15 years. In the case of *katkabalas*, usufructuary mortgages by conditional sale, the term is 9 to 15 years only. So, if there was any case it was with regard to incomplete usufructuary mortgages but there is no case for mortgages of this kind, which will certainly not be prejudicially affected if these provisions of the Act are given effect to. Sir, the provisions of the law which have been made in the Act cannot be questioned by anybody on the ground of fairness and equity. And I think, Sir, we have only made these special provisions for the agriculturists who could get this relief even from the Money-lenders Act. This is a short-cut redress so that they may not be dragged into courts and they may not have to sue the *mahajans* who

are money-lenders who, in the long run, will win the case. It is very easy to prove the period. If the agriculturist-debtor only proves that so many years have passed, he will get back his land. He will not have to prove how much usufruct the creditor has got. So, everyone who has got the interest of the agriculturists at heart must support the Bill as it has been drafted and oppose the amendment which has been moved by my friend, the Rai Bahadur. With these words, Sir, I oppose the amendment.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, after what has been said by the Khan Bahadur I think I need say very little and I formally oppose the amendment moved by the Rai Bahadur.

Mr. PRESIDENT: The question before the House is: that sub-clause (*1*) of clause 3 of the Bill be deleted and sub-clauses (*2*) to (*5*) thereof be renumbered accordingly.

(The amendment was negatived.)

Khan Bahadur M. SHAMSUZZOHA: Sir, I beg to move that for sub-clause (*1*) of clause 3 of the Bill, the following be substituted, namely:—

"(*1*) In sub-section (*1a*) for the words, figures and commas 'every usufructuary mortgage subsisting on or after the first day of August, 1937, which was entered into before', the words, brackets, figures and commas 'every mortgage (including a mortgage by conditional sale) entered into by an occupancy-*raiyat* in respect of his holding or of a portion or share thereof, in which possession of land is delivered to the mortgagee subsisting on or after the first day of August, 1937, and which was so entered into before or after,' shall be substituted."

Sir, to the Government amendment I have added two words "or after". This is only with a view to make the intention of the Government amendment clear and complete. The real intention of the Government in bringing forward this amendment is that all mortgages, including a mortgage by conditional sale in which possession of mortgaged property is delivered to the mortgagee, those should be considered as complete usufructuary mortgages and that whether they have been entered into before 1928 or after 1928. In other wrods, every kind of mortgage entered into by an occupancy-*raiyat* either before or after 1928 in which possession of mortgaged property is delivered to the mortgagee should be treated as complete usufructuary mortgage. After the enactment in 1928 of the law that usufructuary mortgages should be taken to have been extinguished within 15 years at the latest, attempt has been made to evade this provision of law by a subterfuge, namely, by a stipulation in *kotkabalas* and other forms of

mortgages according to which possession of the mortgaged property is delivered to the mortgagee and this possession may continue for any number of years. Government has got to counteract such attempts at evasion of the law. And hence this amending Bill has been conceived with a view to protect occupancy-*raiyats* in the present predicament who, because of their helpless position, entered into unconscionable bargain by executing *kotkabalas* and other mortgages in which possession of mortgaged properties has been made over to mortgagee and we feel, Sir, that such protection should be afforded to these persons who really need it as their cases are exactly parallel with the cases of those who entered into incomplete usufructuary mortgages as obtained before 1928. Therefore, Sir, Government has thought it fit and proper to give protection to this class of mortgagors by this amending Bill. But unfortunately, perhaps through oversight, the intention has not been expressed in full and with sufficient clarity.

In order that the intention of the Government may be fulfilled and expressed in fullness and completely, I have proposed that such mortgages as described above which were entered into after 1928 should also be included in the amendment. Therefore, I have proposed the words "or after" and the only other word "and" has been added in order to effect a better drafting of the whole thing. I think, therefore, Sir, that as this legislation has been thought of by the Government in order to give protection to this class of improvident debtors, it is only expedient and desirable that all those who have got the heart and willingness to help such class of debtors, i.e., occupancy-*raiyats*, will kindly extend their whole-hearted sympathy and co-operation in supporting the amendment moved by me.

Mr. PRESIDENT: Amendment moved: that for sub-clause (*1*) of clause 3 of the Bill, the following be substituted, namely:—

"(*1*) In sub-section (*1a*) for the words, figures and commas 'every usufructuary mortgage subsisting on or after the first day of August, 1937, which was so entered into before', the words, brackets, figures and commas 'every mortgage (including a mortgage by conditional sale) entered into by an occupancy-*raiyat* in respect of his holding or of a portion or share thereof, in which possession of land is delivered to the mortgagee subsisting on or before the first day of August, 1937, and which was so entered into before or after' shall be substituted."

Mr. H. C. A. HUNTER: Mr. President, I regret to have to oppose the motion moved by my honourable friend. On a previous occasion, I think I made it clear to this House that my party is in whole-hearted support of the main object of this Bill but that we object strongly to the expropriatory provisions which have tacitly been introduced in this Bill by the elimination of the safeguards which had been incorporated

in the Bill as originally drafted. The amendment of my honourable friend seeks further to extend the expropriatory nature of the Bill. As the Bill has emerged from the Select Committee, the expropriatory nature of many of the clauses is mitigated by safeguards which have been restored on the lines of the Bill as originally drafted and the amendments put forward by my party seek to complete the reinstatement of the Bill more or less to the same form as it was originally drafted. I would like to make it clear that unless these amendments are adopted and the reinstated clauses of the Bill retained, we shall very regretfully have to oppose the passage of the Bill in the Third Reading stage.

With these few words, I formally oppose the amendment moved by Khan Bahadur M. Shamsuzzoha.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: I rise to support the motion and to explain why the amendment has been moved. In the last Act as it was passed, it was mentioned that incomplete usufructuary mortgages which were executed before 1928 would be taken as complete usufructuary mortgage and the reason was that in the Act of 1928 all future incomplete usufructuary mortgages were made void and illegal; that is why the phrase "before 1928" occurs there. But, Sir, in the amendment which has been made in the Government Bill only a few words have been substituted and so the words "before 1928" which apply only in respect of incomplete usufructuary mortgage will apply also to mortgage by conditional sale of a usufructuary nature although it was never meant to be so. These mortgages by conditional sales are legal even up till now. They have not been made illegal. On the other hand, complete usufructuary mortgages were made illegal since 1928. That is why it was definitely said that an incomplete usufructuary mortgage which was entered into before 1928 will take effect as complete usufructuary mortgage. That explains the necessity of using the words "before 1928", but in case of *kotkabalas* or mortgages by conditional sales there is no such necessity, because these conditional sales are legal even now and it is certainly the intention of the framers of this Bill that it should apply to all the usufructuary mortgages which up till now have been executed or will be executed before the passing of this Bill. In view of that, this amendment is absolutely necessary; otherwise there are very few mortgages by conditional sales which were entered into before 1928 and which are still subsisting. Ordinarily, mortgages by conditional sale are for a period of 9 to 15 years. Already 12 years have passed. So, the real intention is to apply this provision to all mortgages by conditional sale which are still subsisting. That is why the word before or after 1928 is absolutely necessary. I am not sure whether

the drafting is quite proper, because the word before applies to incomplete usufructuary mortgages and the word "after" will apply to mortgages by conditional sale.

I want to add one word in reply to the remarks made by the honourable member representing the European Group. He has said that this Bill is of an expropriatory nature, and that is why they have not been able to lend their support to the Bill as it is. It is unfortunate that the European members were not present when I opposed the first motion (Nos. 3-11) which was moved by Rai Bahadur Manmatha Nath Bose. I said there that it was not of an expropriatory nature at all. Only the provisions of the Money-lenders Act are being applied here. It is being applied only to mortgages: it has nothing to do with sale deeds. And what are these mortgages? We have seen from the Banking Enquiry Committee Report that the rate of interest is 37·5 per cent., for an ordinary agriculturist and the creditor who lends money by taking a mortgage deed by conditional sale must be sure that he gets his interest according to the ordinary rate prevailing in the country. If that be the case, 37·5 per cent. rate of interest will double within 6 years and instead of 6 years we have put it down as 15 years or any shorter period which is mentioned in the document. The ordinary period is 9 to 15 years. So, he will get more than double. According to the Money-lenders Act also, the debtor will get this relief. The only thing we are doing in the case of an agriculturist is that instead of sending him to court to prove how much in every case the lender has enjoyed (these are very difficult to prove), we make this provision that such mortgages should be automatically redeemed after 15 years or so. In fixing the period, we have shown sufficient consideration for the creditors also, because instead of 6 years by which period the principal would have been doubled, we have fixed it at 15 years. So, Sir, it is not at all of an expropriatory nature. It is only giving effect to the Money-lenders Act in a short-cut way in order to help the agriculturist who cannot otherwise get back his land by going to court and fighting with the money-lender who has got a long purse. It is very difficult for a poor man to fight with a man with long purse and to get real justice.

With these words, I support the motion moved by Khan Bahadur Shamsuzzoha.

Mr. E. C. ORMOND: I would not have detained the House by any further words, had it not been for the speech of the last speaker, in view of what has been said already by the leader of my party. We, on this side of the House, do not agree with the views expressed by the honourable member who spoke last that this is not an expropriatory Bill. It may be and I have no doubt that the honourable member is probably accurate in what he gave to this House—an average of 13·5

per cent. as a figure. On that average figure people who lend money on mortgage by conditional sale may ordinarily have their money back within a period of 15 years but we cannot legislate on averages. Men have their rights and it is obviously I say expropriation, if you introduce a law which has this effect. A man owns an occupancy-right in a piece of land; he wants to borrow money. His simplest method and the method most popular is to borrow this money on a mortgage by conditional sale. That mortgage has certain advantages. He enters into a sale deed and the lender who advances the money and takes the land knows that he will then not be troubled by any suits for redemption or anything of that sort. In the sale deed is a clause to the effect that the previous owner may get his land back by paying a particular fixed sum which is mentioned in the deed.

There is no room for discussion as to whether the usufruct has come up to a certain sum or anything else, and one of the advantages, I take it, of this type of transaction is that men in this province, as other land-owners all over the world, are attached to their land. If a man gets into financial difficulties, he may say, "I shall have to part with this land, but, at any rate, I shall see that my son gets it back and that my family continues on the same land", and, therefore, he prefers, in all probability a mortgage by conditional sale to any other. That accounts for the fact that mortgages by conditional sale are not only not few in number but are popular and are numerous. Therefore, the effect of this legislation is going to be very widespread—it is going to affect a great number of people.

Now, Sir, going back to this transaction, the owner, the occupancy-*raiyat*, who has got into financial difficulties, decides that he should borrow money on a mortgage by conditional sale. He then enters into his deed and what does he get? Unlike an ordinary mortgagor, he practically gets the full value of his land. The man who has taken the land, the lender or the purchaser—whatever you like to call him—will have advanced, practically speaking, in nearly all cases what is the full market price of that land. Now, people buy land for various motives. I may not be an average person; I may not figure on being able to get that 13·5 per cent., in so many years in my particular case. I may hope to get my money back, but later on. Or there may be a particular piece of land, which is next to my own holding, and I may decide that I should like to hold that one piece of land for various reasons. Or, I may take a piece of land which I reckon if I use particular methods of farming and exploit that land by putting money into it either by irrigating it or by building *bunds* or by manuring it or by cutting down the trees or planting trees or one thing or another which may be expensive, I may reckon that if I exploit that land I shall get that money back eventually though not at first. But, Sir, it may be that I may have other fish to fry, or I may have other uses for my

limited resources, and I may not be able to put in money into the land for, say, 5, 10, 12, 13, 14 or 15 years.' It may well be, Sir, that I shall have had to pay the full price—the whole price—of that land, and after all this I may not get back even one anna within the 15 years.

Now, Sir, that may happen—that will not happen, no doubt, in the majority of cases. My question to you, Sir, is: "Why expropriate the rights of people and even their land just because they are not average people, and just because they did not enter into an average transaction"? Now, the effect of this legislation would be, if it is passed in the form favoured by the honourable member who spoke last, that, going back to that hypothetical transfer, which I was taking as an instance, the owner of the land, the occupancy-*raiyat*, will have had the full value for it. The lender of the money will have the land: but nothing else.

Now, if this Bill is passed, automatically, by a sweep of the legislative pen, that miserable lender who has paid the full value in good hard cash will be told not only that he cannot get his money back but that he must disgorge the land as well. (Cries of "Hear, hear".) Now, if that is not expropriation, I have no use for the English language.

Now, Sir, apart from this general aspect of the matter, I will now revert in, I hope, a calmer tone to the details of this particular motion that is now before the House. The object of this amendment, I understand, is to fill in a hiatus, which, owing to the hurry and the incompetent manner in which this Bill has come to the present place, has presumably been previous to to-day overlooked. The matter stands in this way. The Bengal Tenancy Act in regard to mortgages by occupancy-*raiyats* has been amended on various occasions. It was amended in 1928. Now, Sir, by the Act of 1928 there was no suggestion made of any retrospective effect. There was no suggestion of expropriating the rights of any one who had entered into a mortgage previous to the passing of the Act. Now, I can fully understand that it may be the policy of the Legislature not to allow occupancy-*raiyats* to enter into certain forms of mortgage. That is a debatable point—what occupancy-*raiyats* can transfer by way of mortgage and into what forms of contract they may enter. There are two sides of this question. Some people, like myself, will say that mortgage by conditional sale will not do any harm to the occupancy-*raiyats*; other people will say that he should not be allowed to borrow money on a mortgage by conditional sale.' That is; this is a question to which there may be two answers, or rather two opinions on it. And, Sir, assuming that the Legislature takes the view that occupancy-*raiyats* should not be allowed to borrow

money on mortgages by conditional sale, we can come to a sensible conclusion. We can understand that. Let an Act be passed from the date of this Act so that henceforward mortgages by conditional sale may not even be entered into by an occupancy-*raiyat*, who is in financial difficulty and wants to borrow money. But, Sir, what we object to on this side of the House is the interference with mortgages which have been entered into before this Act will have come into existence. And I was pointing out, Sir,—I expect you to be familiar with the matter and I also expect that most members are familiar with the matter involved in this amendment—that it is a matter which strikes us on this side of the House as having a very important character. When the 1928 Act was passed, there was no retrospective effect; there was no interference with mortgages which had been entered into previous to 1928. The only effect of that was that for the future, i.e., after 1928, the occupancy-*raiyat* would be entitled to enter into a complete usufructuary mortgage for a period of over 15 years but that he would not be entitled to enter either into an incomplete usufructuary mortgage for any period or a complete usufructuary mortgage for more than 15 years, and that no other mortgages of any type or kind were affected. Then, there was the Amendment Act of 1938, which laid down that the restriction to certain mortgages was to be given retrospective effect. The amendment of the 1938 Act was to bring in retrospective effect and to say that if an occupancy-*raiyat* had entered into an incomplete usufructuary mortgage or if he had entered into a complete usufructuary mortgage for more than 15 years—as if he had entered into a complete usufructuary mortgage, the net legal effect would be the same for fifteen years. But the difference between the position on that day and to-day is this: that with regard to the mortgages being effected under the 1938 Act, there had been no cases during the last 10 years The mortgages which were to be affected through this retrospective effect were only those which already to some extent had been *illegalized*, which had been made illegal for the past 10 years. There had been none in existence since 1928 and for that reason the Act only dealt with those which had been entered into before 1928 with retrospective effect. And then the supporters of the present Bill come along, and on the form in which the Bill now stands—as it has come to this House—, these supporters wish to make all mortgages, including mortgages by conditional sale and including anomalous mortgages invalid. They wish to make them all have the same legal effect and to terminate after 15 years. Now, the difference is this—that those mortgages have been entered into frequently. They have been given the sanction of the law; they have been acknowledged as the law by proper legal transactions, which have been supported in courts of law. Right up till yesterday—right up till to-day—men have been encouraged to enter into these mortgages. The position is not as it was when the 1938 Act was passed. At that time the only mortgagees affected

had never existed for the past ten years, but these mortgagees are, by this amendment, sought to be hit and made to terminate after 15 years. It so happened that the drafters of the amendments, which, I understand, were moved in another place, were very anxious to make the alteration by short-notice amendments, with the result that most of them were carelessly or hastily drafted. The drafters of those short-notice amendments wanted to tie the amendments to section 1A of the Act—the sub-section of section 26G of the Act of 1885. By doing so, they omitted the period 1928-1940. Now, Sir, the mover of this amendment has noticed that hiatus between 1928 and 1940, and he wishes to give retrospective effect not only as regards mortgages entered into before 1928 but also as regards all mortgages up to the present day. Now, as the Bill stood on coming to this House, the provisions had only had retrospective effect for mortgages entered into before 1928, since the effect is to terminate those mortgages after 15 years.

Twelve years only have gone and the period of fifteen years has not yet elapsed since 1928, and, therefore, the matter would not cause so much hardship, because there would be nobody the moment this Act is passed who could be brought before a court of law by the mortgagor and be told by the court: "You have had your land long enough; give it up now." But for this present amendment there would be no one to-day who would be brought into a court of law and told "You have had your land long enough, now give it up please", because only 12 years have elapsed since 1928. No, I think, I am inaccurate as regards that last statement that I have made. The position is the other way round and I shall with your permission, Sir, re-state that point.

Mr. PRESIDENT: Order, order. May I interrupt you, Mr. Ormond, just for a minute? (Turning to Khan Bahadur M. Shamsuzzoha) Did you obtain the previous sanction of the Governor as regards your amendment?

Khan Bahadur M. SHAMSUZZOHA: Sir, I do not think that sanction is required in this case.

Mr. PRESIDENT: Well, will you please refer to section 299 (3) of the Government of India Act, 1935? However, I shall read the provision of this section for the information of the House. It runs as follows:—

"No Bill or amendment making provision for the transference to public ownership of any land or for the extinguishment or modification of rights therein, including rights or privileges in respect of land revenue, shall be introduced or moved in either Chamber of the Federal

Legislature without the previous sanction of the Governor-General in his discretion, or in a Chamber of a Provincial Legislature without the previous sanction of the Governor in his discretion."

Khan Bahadur M. SHAMSUZZOHA: Sir, I have seen that section. In my opinion, Sir, having regard to the amendments already made by the Government, it is more or less on the same line. If the——

Mr. PRESIDENT: Order, order. I have enquired and found that previous sanction of the Governor was obtained by the Hon'ble Minister in charge of the Bill. I have satisfied myself on that point. They were correct in their procedure. What I regret is that I missed this point before I heard Mr. Ormond's speech. Please mark the words "extinguishment or modification of rights in land" which are very important in this connection.

Khan Bahadur M. SHAMSUZZOHA: Sir, my submission is that if Government had obtained the previous sanction of the Governor with reference to the amendments that had been passed by the other House —and they are before this House now—my amendment is only in line with the other amendments.

Mr. PRESIDENT: It may be on the same line and yet they would require previous sanction of the Governor before they are moved.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: After what has been said by the mover, I do not think it is necessary for me to waste the time of the House. I fully endorse his views and I hope the House will accept the amendment which the mover has moved.

Mr. E. C. ORMOND: On a point of order, Sir. My point is whether you hold that this amendment is out of order, because it has not had the previous sanction of the Governor. I submit that it is out of order.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to submit that the Governor's sanction has been substantially obtained on this very matter though not exactly in so many words.

Mr. PRESIDENT: The rules are very clear. Even if I had doubts, it is the duty of the Chair to refer the amendments to His Excellency for his previous sanction. After hearing Mr. Ormond, I conclude that the amendments, if carried, will result in the modification, if not extinguishment, of rights in land. Of course, I am agreeable to hear you on the point. I have not yet given my ruling.

Khan Bahadur NAZIRUDDIN AHMAD: Strictly speaking, I respectfully submit that the view expressed by you is quite right, but there is a provision in the Government of India Act which will cure this defect. Section 109 says that where any Bill or a clause or an amendment requires previous sanction, then if the same is passed by the Legislature and if the Governor subsequently assents to it, the defect will be cured.

Mr. PRESIDENT: That is quite correct. If through oversight previous sanction is not obtained, section 109 of the Government of India Act, 1935, cures the irregularity when subsequent assent is given to the Act. But that is no reason why being fully cognisant of the fact that previous sanction is necessary, we should proceed with the passing of a legislation in anticipation that such irregularity will be cured by subsequent assent of the Governor.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I am afraid what Mr. President says is probably correct, and in that case the only alternative would be to adjourn the House for a few minutes to enable the honourable member to obtain the sanction; otherwise the Bill cannot be proceeded with.

Mr. PRESIDENT: There are some other amendments in regard to which also a previous sanction of the Governor, according to my view, is necessary.

Rai MANMATHA NATH BOSE Bahadur: On a point of order, Sir. We find that clause 3, sub-clause (*1*) (*b*) of the amending Bill provides that "notwithstanding anything contained elsewhere in this Act or in any other law or in any contract" and so on. That shows that this enactment is meant to prevail over the Transfer of Property Act and the Contract Act both of which are Governor-General's Acts. It is, therefore, repugnant to the previous Acts passed by the Governor-General in Council. But section 108 (*2*) of the Government of India Act provides that it is necessary to obtain the previous sanction of the Governor-General before introducing a Bill of this type in the Council. I, therefore, wish that whether or not the previous sanction of the Governor-General has been obtained may be enquired into and if not obtained, the Bill cannot go on.

Mr. PRESIDENT: Mr. Bose was referring to section 108 (*2*) of the Government of India Act. This section deals with repeals.

Rai MANMATHA NATH BOSE Bahadur: If you kindly refer to 108(*b*), you will find the words "repeals, amends, or is repugnant to

any Governor-General's Act". So, this Bill is quite repugnant to the two Acts of the Governor-General, namely, the Transfer of Property Act and the Indian Contract Act. Here, we find the expression "notwithstanding anything contained elsewhere in this Act or in any other law or in any contract....."

Mr. PRESIDENT: That is quite a different thing. The words, "repeals, amends or is repugnant to any Governor-General's Act" mentioned in section 108(*2*)(*b*) referred to by you, do not apply to the ordinary law.

Rai MANMATHA NATH BOSE Bahadur: I am referring to the transfer of Property Act and the Contract Act.

Mr. PRESIDENT: They are the Acts of the Central Legislature. So far as the repugnancy is concerned, it is curable if the provincial legislation having been reserved for the consideration of the Governor-General receives his assent.

Rai MANMATHA NATH BOSE Bahadur: May I be permitted to ask if this is not Governor-General's Act, which is a Governor-General's Act?

Mr. PRESIDENT: Please read section 44 of the Government of India Act. In cases of emergency, for the purpose of enabling him to discharge his function in so far as he is required, in the exercise thereof, to act in his discretion or in his individual judgment, he may enact forthwith, as a Governor-General's Act, a Bill containing such provision as he considers necessary.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: There are certain amendments of the same nature and I wish to obtain the sanction of the Governor in regard to them also.

Khan Bahadur NAZIRUDDIN AHMAD: I submit that the Bill is not repugnant to any Central Act at all.

Mr. PRESIDENT: Order, order, that point is decided. Even if there is any repugnancy, it may be cured.

I postpone the discussion of this Bill at this stage and shall take up the next Bill, namely, the Administrator-General's (Bengal Amendment) Bill, 1940.

The Administrator-General's (Bengal Amendment) Bill, 1940.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I beg to move that the Administrator-General's (Bengal Amendment) Bill, 1940, be taken into consideration.

Mr. PRESIDENT: Motion moved: that the Administrator-General's (Bengal Amendment) Bill, 1940, be taken into consideration.

Mr. PRESIDENT: The question before the House is: that the Administrator-General's (Bengal Amendment) Bill, 1940, be taken into consideration.

(The motion was agreed to.)

Clauses 1, 2, 3, 4 and 5.

Mr. PRESIDENT: The question before the House is: that clauses 1, 2, 3, 4, 5 stand part of the Bill.

(The motion was agreed to.)

Clauses 6, 7, 8 and 9.

Mr. PRESIDENT: The question before the House is: that clauses 6, 7, 8, 9 stand part of the Bill.

(The motion was agreed to.)

Preamble and Short Title.

Mr. PRESIDENT: The question before the House is: that the Preamble and the Short Title be added to the Bill.

(The motion was agreed to.)

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I beg to move that the Bill, as settled in the Council, be passed.

Mr. PRESIDENT: Motion moved: that the Bill, as settled in the Council, be passed.

Khan Bahadur NAZIRUDDIN AHMAD: It would have been more satisfactory to us, taken by surprise as we are, if the Hon'ble Minister had explained the provisions of the Bill as shortly as possible.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: This is a very short Bill, Sir. It seeks to simplify the audit system that at present prevails in regard to the administration of estates.

This Bill has been framed to provide certain improvements to the Administrator-General's Act, 1913, in order to increase its utility, first, in cases where there is apprehension of danger to the estate of a deceased person, by enlarging the scope of sections 10 and 11 of the present Act so that they may apply not only to estates with assets in Calcutta, and, secondly, by enabling the Administrator-General to take charge of an estate without letters of administration, if he is requested to do so by the widow or other person entitled to administer it, before expiry of the period of three months at present fixed by section 32.

Government are advised that as section 45 of the Act is framed, what is known as a one hundred per cent. audit is required to be made of the accounts of all estates; to carry this out requires unnecessary expenditure to the estates, and the section is proposed to be amended to permit of a suitable fractional audit.

Opportunity is also taken to include some amendments of a formal or minor character.

Sir, the object of the Bill is so very clear that I do not believe that any explanation is necessary from me, and I hope this statement of the purpose of this Bill will satisfy my friend Khan Bahadur Naziruddin Ahmad.

Mr. PRESIDENT: The question before the House is: that the Administrator-General's (Bengal Amendment) Bill, 1940, as settled in the Council, be passed.

(The motion was agreed to.)

The Official Trustees (Bengal Amendment) Bill, 1940.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Mr. President, Sir, I beg to move that the Official Trustees (Bengal Amendment) Bill, 1940, be taken into consideration.

Mr. PRESIDENT: Motion moved: that the Official Trustees (Bengal Amendment) Bill, 1940, be taken into consideration.

(The motion was agreed to.)

Clauses 1, 2 and 3.

Mr. PRESIDENT: The question before the House is: that clauses 1, 2 and 3 stand part of the Bill.

(The motion was agreed to.)

Preamble and Short Title.

Mr. PRESIDENT: The question before the House is: that the Preamble and the Short Title be added to the Bill.

(The motion was agreed to.)

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I beg to move that the Official Trustees (Bengal Amendment) Bill, 1940, as settled in the Council, be passed.

Perhaps my friend Khan Bahadur Naziruddin Ahmad expects me to make a short speech explaining the necessity of this measure.

This is a very short Bill, Sir. Really speaking, it is a one-clause Bill, and it wants to simplify the audit system. Instead of a hundred per cent. audit we want to have a fractional audit, viz., 30 per cent. audit, which, I believe, will satisfy all. That is the underlying object of this measure. Instead of spending Rs. 30,000 more for the audit of all the estates, if we can save this money, it will be a saving for the whole country. With that object in view, Government have brought forward this Bill. We have taken care to see that while improving the audit system it will not injure the present accounting system.

I hope, Sir, that my friends here will agree to this amending measure.

Mr. PRESIDENT: The question before the House is: that the Official Trustees (Bengal Amendment) Bill, 1940, as settled in the Council, be passed.

(The motion was agreed to.)

I adjourn the House till 4-20 p.m. to-day.

(The Council adjourned till 4-20 p.m.)

(After adjournment.)

Rai KESHAB CHANDRA BANERJEE Bahadur: On a point of order, Sir. How long will the discussion of the Bill continue?

Mr. PRESIDENT: The other House will be sitting at 6 p.m. If it would not be inconvenient to the honourable members to sit in the morning on Saturday, then it would be better to adjourn now.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Government have no objection. Is it the desire of the House that we should postpone immediately or continue up to 5 o'clock and make some progress?

Rai KESHAB CHANDRA BANERJEE Bahadur: It will be inconvenient to continue to-day any further. I think Saturday will be better.

Mr. PRESIDENT: We may consult the opinion of the House. Mr. Hunter.

Mr. H. C. A. HUNTER: So far as my group is concerned, we would rather have an adjournment as to-day is the polling day. Besides there is a lot of work in our office, but if we have to go on now, the sitting should not continue after 5 o'clock.

Mr. PRESIDENT: Order, order. The House stands adjourned till 2-15 p.m. to-morrow.

Adjournment.

The Council then adjourned till 2-15 p.m. on Friday, the 29th March, 1940.

Members absent.

The following members were absent from the meeting held on the 28th March, 1940:—

(1) Mr. Hamidul Huq Chowdhury.
(2) Mr. Humayun Reza Chowdhury.
(3) Mr. D. J. Cohen.
(4) Mrs. K. D'Rozario.
(5) Khan Bahadur S. Fazal Ellahi.
(6) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(7) Nawabzada Kamruddin Haider.
(8) Mr. Mohamed Hossain.
(9) Khan Bahadur Syed Muhammad Ghaziul Huq.
(10) Mr. Humayun Kabir.
(11) Maulana Muhammad Akram Khan.
(12) Mr. H. G. G. MacKay.
(13) Mr. Naresh Nath Mookerjee.
(14) Dr. Radha Kumud Mookerji.
(15) Rai Bahadur Satis Chandra Mukharji.
(16) Mr. H. P. Poddar.
(17) Mr. Sachindra Narayan Sanyal.
(18) Rai Sahib Indu Bhusan Sarker.
(19) Rai Sahib Jatindra Mohan Sen.
(20) Rai Bahadur Surendra Narayan Sinha.
(21) Raja Bhupendra Narayan Sinha Bahadur.

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BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Buildings, Calcutta, on Friday, the 29th March, 1940, at 2-15 p.m. being the seventeenth day of the First Session, pursuant to section 62 (2) (a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTION AND ANSWER

Realisation of process-fee in Chittagong.

77. Mr. NUR AHMED: (a) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state if it is a fact that the *roazina* or process-fee used to be realised formerly from the defaulting proprietors of estates at the rate of annas 12?

(b) Is it a fact that the said rate of annas 12 has been raised by a recent order from the Government varying from Re. 1-8 to Rs. 3?

(c) Is it a fact that this *roazina* or process-fee is now being realised in Chittagong from defaulting proprietors and others at the rate of Re. 1-8 to Rs. 3?

(d) Will the Hon'ble Minister be pleased to state why an order has been issued by the Government enhancing the process-fee in question from annas 12 to Re. 1-8 to Rs. 3?

(e) Does the Government intend to reduce the *roazina* or process-fee to annas 12 or less? If not, why not?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (a) No. The rates of process-fee leviable under rule 70 of the Sale Law Manual, 1932, were fixed in 1893. Up to 1903, the district of Chittagong was exempted from the orders imposing separate fees for notices served in different places owing to the number of petty estates in that district and a flat rate of annas 12 only was charged. In 1903 all estates paying revenue of Rs. 10 and upwards were brought under the full operation of the rule, the rest paying the 12-anna rate as before.

(b) No.

(*c*) Process-fee is now being realised in Chittagong at the following consolidated scale instead of charging separate fees for separate notices:—

For proclamation under section 7 of Act XI of 1859—

	Rs.	A.	
(*i*) Estates and tenures with annual demand of Rs. 10 and over	2	4	(Consolidated).
(*ii*) Estates and tenures with annual demand of less than Rs. 10 ...	1	8	,,
(*iii*) Estates and tenures with annual demand of below Rs. 5 ...	0	12	,,
For proclamation withdrawing attachment under rule 70(4) of the Sale Law Manual	0	12	,,

(*d*) The present scale has been devised to cover the cost of the processes.

(*e*) The matter is under consideration.

Report of Select Committee on the Bengal Legislative Council Powers and Privileges Bill, 1939.

The Hon'ble Khwaja Sir NAZIMUDDIN: With your permission, Sir, I beg to move that the date for the presentation of the report of the Select Committee on the Bengal Legislative Council Powers and Privileges Bill, 1939, be extended to 30th July, 1940.

Sir, I may just give a short explanation that owing to the Budget Session it has not yet been possible to take this matter up. I hope the House will agree to this motion of mine.

Mr. PRESIDENT: Motion moved: that the date for the presentation of the report of the Select Committee on the Bengal Legislative Council Powers and Privileges Bill, 1939, be extended to 30th July, 1940.

(After a pause.) The question before the House is: that the date for the presentation of the report of the Select Committee on the Bengal Legislative Council Powers and Privileges Bill, 1939, be extended to 30th July, 1940.

(The motion was agreed to.)

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: On a point of information, Sir. We got an agenda paper on the 26th March in

which I noticed that Maulvi Nur Ahmed's Bill was shown as the first, mine as the second and so on. But now, Sir, we find that that order has been changed. May I enquire, Sir, how, after the ballot, it could be changed without a requisition from two-thirds of the members?

Mr. PRESIDENT: Circumstances have changed since then. The first one, coming as it does from the Select Committee, is in a more advanced stage and so it has got to be taken into consideration first.

According to rule 20 of the Bengal Legislative Council Procedure Rules, Bills shall be arranged so as to give priority to those which are most advanced. The relative precedence of Bills which are in the same stage is only determined by ballot.

The House will now consider the Non-official Bills.

NON-OFFICIAL BILLS.

The Bengal Abolition of Dowry Bill, 1938.

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that the Bengal Abolition of Dowry Bill, 1938, as reported by the Select Committee, be taken into consideration.

Mr. PRESIDENT: Motion moved: that the Bengal Abolition of Dowry Bill, 1938, as reported by the Select Committee, be taken into consideration.

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: Sir, I beg to move that the Bill be recommitted with instructions to submit the report by the 29th July, 1940, and that the quorum of the Select Committee be fixed as before.

Mr. PRESIDENT: Do you mean to refer the Bill to the same Select Committee?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: Yes, Sir. My object in dong so is this. We propose to amend the Bill to suit the present-day conditions of the country, as I am informed that the Bill, as amended, contains materials which are of such a nature that, unless it is recommitted and reconsidered on its merits again, there is no chance of our doing the work so easily here, on the floor of this House.

On point that struck us most, is the distinction that we have drawn between "dowry" and "gift." The difference centred round the point

that payment or acceptance of dowry should be considered a criminal offence whereas the acceptance or payment of a "gift" should not be considered so. So, there has been a difference of opinion amongst ourselves on this. If you want to have such a Bill, you must make it of such a nature so that one can carry it out in letter and spirit in actual practice. If you say that "dowry" means anything paid before or at the time of marriage, then it gives rise to the suggestion of one of my friends who asked what would be the case if the money was kept in charge of a third party, who might pay it afterwards. So, the definition of "dowry" as given at present is not exhaustive and cannot cover all cases.

So, all these points must be threshed out. There is one very peculiar remark made that the Government would have to take too much power in their hands. Already our Penal Code contains so many matters and the courts have been given power to punish the people for offences mentioned therein. Now comes another offence as a result of the provisions of this Act by which only the Hindus will be punished. Of course, this does not concern the Muslims, whereas the Indian Penal Code applies to all communities. So, only one community being punished for offences committed by them under this Act is also one of the points that has got to be examined once again in the Select Committee. When this Bill is of such importance, if we pass it straight away on the floor of the House in the course of five or six days, we will be plunging the hole country into difficulties. So, I suggest that it is only proper that we consider the matter in all its bearings in a calmer atmosphere. I would, therefore, request that before we come to a final conclusion, we should not expedite the matter and pass it in one session. Personally, I have no objection to a Bill of this nature. If we could reform the society, I, for my part, would be very glad to do what I can. But if a social reformer is bent upon actually sending a man to prison for any social wrongs that he may commit, the former must think thrice before such drastic steps are taken. If such a drastic provision was not incorporated in the Bill and if only actionable claims had been suggested in the Bill, I think that would have been quite all right. If a man actually commits any wrong and if it had been provided that he should have merely to pay a fine for such wrongs without going to a criminal or civil court, then that would have been something which one could understand and accept. But here we want actually to penalise a section of the people and we want to take power unto us to punish only that section. So, I must think ten times before I can ask the House to pass a Bill of this nature in one session. As far as I know, we actually asked for public opinion in this province. The opinions that have been received hitherto are all against a Bill of this nature. Had any party from any quarter suggested that this Bill should be supported, I for my part would not have raised any objection. The

Liberal Federation, the Indian Association and all the other Bodies that took considerable pains to reply to our query, have all condemned the Bill.

Mr. PRESIDENT: Does it not come to this that you are opposing the Bill?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: May be, Sir, but of my own accord I do not want to oppose the Bill. I have put forward the points, which, I say, must be again gone into thoroughly by the Select Committee before a final shape is given to the Bill.

Mr. PRESIDENT: Once you refer it to the Select Committee, you commit the House to its principle, but your own argument goes against your motion for recommittal of the Bill to the Select Committee.

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: But when I say that there should be recommittal, I know that if it is recommitted, my friend might be induced to withdraw his Bill if we can convince him that the Bill will do real harm to the people whom he really wants to protect by this measure. That is our point.

Mr. PRESIDENT: Then, you oppose it.

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: I can always do that but the reason why I am not doing that is that one of my friends approached me and said that he had got five daughters of marriageable age and it would be helpful if I could help him in any way. That is why, I am not opposing it. That appeal was really in support of the Bill, but unfortunately another party now say that this Bill will be doing harm to the society. Formerly, the Bill did not aim at restricting only one community. The Bill was of a general nature. It was meant to apply to all the communities, namely, Hindus, Muhammadans, Christians; but the Select Committee have restricted its operation to only one community, viz., the Hindu community——

Mr. PRESIDENT: Order, order. The term of membership of the honourable the mover of the Bill will expire on the 4th April and the Bill will automatically lapse with his retirement. So, is it not better to oppose it than incurring further expenditure by sending it to the Select Committee, when as a matter of fact, it is not the intention to pass the Bill?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: If that is the opinion of the Hon'ble President and if all the Hindu

members say that they do not want a Bill like that, we can throw it out at once. I would only appeal to my Hindu friends to consider if they want to put themselves into these difficulties. It is they and they alone who are going to be punished for offences of this kind——

Mr. RANAJIT PAL CHOWDHURY: On a point of order, Sir. Is the Hon'ble Minister in order in stating that the same Select Committee will consider the Bill when the sponsor of the Bill will automatically cease to be a member of the House after the 4th of April?

Mr. PRESIDENT: That is a matter of practical importance; but on a point of order I cannot refuse permission to the moving of the amendment of which due notice has been given. As I have said, this Bill will automatically lapse even if it is committed by this House for reconsideration by the same Committee when the honourable member will cease to be a member after the 4th of April. It is for the Hon'ble Minister to see whether Government will oppose it or move a motion like this.

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: Of course, Sir, we understand that if the Bill is recommitted, the Bill is killed. The Bill may be killed for the present but another member can bring it up and there will be no difficulty in his doing so. What I want to say is that why should I be accused of being a party to a conspiracy to punish the Hindus alone, omitting the Muslims?

Mr. PRESIDENT: You are giving reasons for opposing it.

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: The point that is actually at the back of my mind is that the Bill should be kept alive, so that it may be taken up by another member. We will have to consider it afresh and see whether we can give it a shape which will give satisfaction to all sections of the people and not penalise only one community. The House will remember that Mr. Nur Ahmed has also suggested a Bill of this kind for the Muslim community. I do not know what I should do so far as that Bill is concerned; of course his Bill is simply at the preliminary stage of introduction. It is not the convention to oppose any Bill at the introduction stage and we do not propose to raise any objection to that motion. But if these social evils are to be properly handled, the Bill must be one which will apply to Hindus, Muhammadans and other communities equally. The present Select Committee have really transgressed this important principle by excluding the other communities from the operation of the Bill and confining it only to the Hindu community. If the matter is again threshed out——

Mr. RANAJIT PAL CHOWDHURY: Did you make a note of dissent to that effect?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: I did not think it necessary, Sir.

I would not have made this protest if opposition had not come from the thoughtful section of the Hindu community. In a body they said "Why are you penalising us in this way? Why should you do so?" I said "I am helpless in the matter." I thought that the Bill as it had emerged from the Select Committee would be of a non-controversial nature, but I now find that the Bill is of such a controversial nature that it should not be rushed through during this session.

Mr. PRESIDENT: Amendment moved: that the Bill be recommitted with instructions to submit the report by the 29th July, 1940, and that the quorum of the Select Committee be fixed as before.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, it is with a certain amount of hesitation that I rise to speak on this subject. I realise that in view of the report of the Select Committee, as a community the Moslems are not interested in this Bill and therefore my presuming to speak on a matter which is going to affect Hindu community only may, to a certain extent, be questioned. But this is one of the questions in which I have taken a certain amount of interest. This subject has been discussed both in the papers and on the platforms for a considerable period and it is one of those naughty problems which so far have baffled solution. As the result of discussions with different circles of my friends, I have formed a certain opinion on this subject and I have thought that that point of view should be placed for consideration by the Hindu community itself as well as by the Select Committee when the Bill is recommitted to it. Sir, that point of view is that unless and until the Hindu Law of Inheritance is changed, I personally feel that it would be a great hardship to the daughters if they are not to get any benefit whatsoever from the property of their parents. That is a difficulty which I find will be very difficult to solve and yet this Bill is practically depriving the daughter of any share in the property of her parents. We may find a solution of this difficulty, we may go in for anti-dowry principles but before all that is done, some means must be found whereby the daughter is to get a benefit from the property of her parents. How can any one justify this difference between the son and the daughter? There may be some difference in the amount that is given to the daughter as compared to the son and there may be a certain amount of justification, so far as the landed property and things like that are concerned, for the estate being tied down to one's ancestral line; but to deprive the daughters altogether of any share in

the property of their parents seems to be a real injustice and unless a solution of this difficulty is found, it is not meet and proper that one should proceed with this Bill.

Mr. NARESH NATH MOOKERJEE: That is a different thing.

The Hon'ble Khwaja Sir NAZIMUDDIN: Until you solve this question, I do not think it is fair to try to put a stop to the evil of this dowry system. I think the two things should be taken up simultaneously. It is quite correct that the dowry system creates a great deal of hardship to the people with limited means and the poor middle-class families, but we have got to solve the other problem also at the same time. Government should also see how they can solve the problem of benefiting the daughters.

Khan Bahadur ATAUR RAHMAN: The easiest means of solving the problem is to convert them to Islam (laughter).

The Hon'ble Khwaja Sir NAZIMUDDIN: I believe what the Khan Bahadur means is acceptance of the Law of Inheritance of the Muslim community, but there are certain difficulties in that course. Anyone who would come forward to solve this question must tackle the other problem also; otherwise it would be unfair. That is all I have to say. So far as this particular Bill is concerned, of course, I am speaking subject to correction, the difficulty could be obviated without any trouble whatsoever. All a person has got to do is this: the parent of the bride is to deposit money with a third party and after the marriage—you cannot make a gift beforehand—the third party will hand over the money to the bridegroom's parent. From that point of view, it seems to me that you make this Bill absolutely infructuous.

Mr. NARESH NATH MOOKERJEE: That will also be a penal act.

The Hon'ble Khwaja Sir NAZIMUDDIN: It would be a penal act if the payment was to be made before the marriage. What the people will have to do is this. First of all, they have to settle the amount of dowry; then they will have to go to a person in whom both the parties have confidence and request him to keep the money with him. As soon as the marirage is over, he will hand over the money to the recipient. As soon as you hand over the money to a third person, you cannot under this law touch him and thus you are circumventing the provisions of this Bill. The parents of the bridegrooms can still extract money from the parents of the brides. These are the difficulties which I find in this Bill as it has emerged from the Select Committee and therefore I think

there is a certain advantage in the recommittal, as proposed, because it will afford time to the Select Committee to meet and think over these questions, and perhaps in the light of discussions that may take place, they may decide on certain things, which some other members of this House can take up afterwards. Supposing, we kill this Bill to-day, then it will be very discouraging for any other member to come forward with another Bill and the problem may remain unsolved. So, I think there is a distinct advantage in sending the Bill to the Select Committee over again, because in that case you will again get a chance to sit down and think over the question. After all, there are other members who can take it up. The honourable member who is now in charge of the Bill will certainly get the credit in that case also, if this Bill in any shape or form is eventually passed.

With these words, I support the motion for recommittal of this Bill to the Select Committee.

Mr. NARESH NATH MOOKERJEE: Sir, may I suggest that we pass on to other items on the agenda and postpone discussion on this matter for the time being so that we can have some consultation among ourselves regarding the attitude that we, of the Congress Party, should take up towards this Bill? I merely ask for postponement for about fifteen minutes so that in the meantime other things may be done and we shall come back later with a decision on this.

Mr. PRESIDENT: Do you think there will be any use in so doing, Sir Bijoy?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It seems that honourable members want time to consider this question because the motion of my honourable colleague really amounts to this that time should be taken to consider this matter and that a Bill like this should not be placed on the Statute Book in a hurry. That is the whole object of his suggestion. If my honourable friend is now inclined to think over the matter, certainly I shall not stand in his way.

Mr. PRESIDENT: Order, order. Consideration of this Bill is postponed for the time being. We shall take it up later on to-day.

The Bengal Money-lenders (Amendment) Bill, 1937, will be taken up now.

Khan Bahadur Maulvi MUHAMMAD IBRAHIM: মাননীয় সভাপতি মহাশয়, আমি গত নবেম্বর মাসে আবগারি বিভাগের কয়েকটী বিষয় অবগত হবার জন্য কয়েকটী question দিয়েছিলাম। আমার কার্য্যকাল শেষ হোয়ে আসছে। কিন্তু দুর্ভাগ্যক্রমে মিনিষ্টার মহাশয় আজ পর্য্যন্ত তার কোন উত্তর দিতে পারলেন না। এতে মিনিষ্টার মহাশয়ের অযোগ্যতাই

প্রকাশ পাচ্ছে। আর এই প্রসঙ্গে আমি বোলতে চাই, ইহাতে শুধু যে আবগারী বিভাগের মিনিষ্টারের অযোগ্যতা প্রকাশ পাচ্ছে তা নয়, শান্তি ও শৃঙ্খলা রক্ষা বিভাগের মিনিষ্টারেরও বহু অযোগ্যতা প্রকাশ পেয়েছে। পাবনা ও বগুড়া জেলায় আমার প্রতি যে অত্যাচার করা হোয়েছে তাহা শান্তি ও শৃঙ্খলার ভারপ্রাপ্ত মিনিষ্টারের অযোগ্যতাই প্রমাণ করে। সেখানে লীগের নামে যে সব গুণ্ডামি করা হোয়েছে, তার প্রধান নায়ক লীগের পাণ্ডা যারা তারাই। বগুড়ার মহম্মদ আলির চেলা সিরাজল হক, পাবনায় দেওয়ান লোৎফার রহমান প্রভৃতি।

The Hon'ble Mr. M. B. MULLIK: On a point of order, Sir. How is it relevant?

Mr. PRESIDENT: খান বাহাদুর, আপনি কতকগুলি question কোরেছেন তার উত্তর চান?

Khan Bahadur Maulvi MUHAMMAD IBRAHIM: আমি বোলছি এই যে বিগত ৫ মাসের মধ্যে আমি আবগারী বিভাগ হোতে আমার প্রশ্নের কোন উত্তর পাচ্ছি না

Mr. PRESIDENT: আমি তদন্ত কোরে দেখ্‌ছি কতদিন ধ'রে question গুলি পোড়ে আছে, এবং তার উত্তর দেওয়া যাবে কি না আমি চেষ্টা কোরে দেখবো।

Khan Bahadur ATAUR RAHMAN: Sir, may I join Khan Bahadur Maulvi Muhammad Ibrahim in a similar complaint against the Excise Minister's Department? I have not got a reply to my question also.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, may I remind the House that the pendiing questions relating to the Excise Department, which still remain unanswered, are merely repetitions of past questions? The answers to previous questions were vague and it is only to clarify the position with regard to them that similar questions were subsequently put. It is a long-drawn affair of about five months. Some machinery ought to be established in the Excise Department to speed up answers.

The Bengal Money-lenders (Amendment) Bill, 1937.

Mr. PRESIDENT: Mr. Nur Ahmed.

Mr. NUR AHMED: Mr. President, Sir, I beg to move that the Bengal Money-lenders (Amendment) Bill, 1937, be taken into consideration.

Sir, during the last session I tabled a similar motion and at that time I explained the main objects of this Bill. So, I do not want to take up any more time of the House. I, therefore, formally move the motion.

Mr. PRESIDENT: Mr. Nur Ahmed, you gave notice of this motion on the 16th of March, and it has not yet become due for being taken into consideration. Without a request for suspending the rule relating to the period of notice, how can you move it to-day? Twenty-one days' notice is necessary in the case of Bills.

Mr. NUR AHMED: Sir, I crave your special permission to suspend the rule in this case.

Mr. PRESIDENT: I am sorry: this motion cannot be moved to-day.

The Bengal Land Revenue Sale Amending Bill, 1938.

Mr. PRESIDENT: Khan Bahadur, the date on which you gave notice of your present motion for the Bill being taken into consideration was 19th March and under the rules twenty-one days' notice is required.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, on the last date I moved it but it so happened that seven or eight days intervened.

Mr. PRESIDENT: Were you absent on that date?

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: No, Sir. After the last meeting I was never absent and the interval between the last date and to-day is only fifteen days. That being the case, Sir, how can I give twenty-one days' notice? I gave notice on the last occasion also and for that reason, Sir, I say that twenty-one days have passed since then.

Mr. PRESIDENT: Were you present on the last occasion and were you asked to move it?

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: I moved it, Sir, simultaneously, i.e., I introduced this Bill on the last day and I also gave notice for its being taken into consideration, but you ruled that there should be a convention that on the day of introduction of a Bill there should be no motion for its consideration

Mr. PRESIDENT: Yes, I follow, I permit you to move the motion to-day.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I beg to move that the Bengal Land Revenue Sale Amending Bill, 1938, be taken into consideration.

Sir, this is a very short Bill. Its object is only to provide for personal notices on proprietors so that they may know that their shares of the estate are going to be sold, before they are actually put up to sale. At present, only a proclamation is published.

Want of Quorum.

Mr. PRESIDENT: Order, order. The question has been raised that there is no quorum in the House.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: I find that there is quorum, Sir.

Mr. PRESIDENT: Yes, please proceed.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: As I was saying, Sir, it is a very short Bill and it only provides that personal notices should be served on the proprietors. If there be a large number of proprietors, then notices should be served on five of them who have got the largest share. That is all that this Bill seeks to provide for.

With these words, Sir, I commend my Bill for the consideration of the House.

Mr. PRESIDENT: Motion moved: that the Bengal Land Revenue Sale Amending Bill, 1938, be taken into consideration.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to move by way of amendment that the Bengal Land Revenue Sale Amending Bill, 1938, be referred to a Select Committee consisting of—

(1) Khan Bahadur M. Abdul Karim,

(2) Khan Sahib Abdul Hamid Chowdhury,

(3) Khan Bahadur Saiyed Muazzamuddin Hosain,

(4) Khan Bahadur Naziruddin Ahmad,

(5) Mr. Kader Baksh.

(6) Mr. E. C. Ormond,

(7) Raja Bhupendra Narayan Sinha Bahadur,

(8) Mr. Kamini Kumar Dutta,

(9) Mr. Naresh Nath Mookerjee,

(10) Rai Manmatha Nath Bose Bahadur, and

(11) the mover,

with instructions to submit their report by the 30th April, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

Sir, the Land Revenue Sale Act is a very old one and it has been working quite satisfactorily for the last three quarters of a century. Now, my friend suddenly discovers that it is operating hardship on co-sharer landlords. So, he wants to provide for notice on them. I feel, therefore, that it is not possible for Government to accept the principle of the Bill without——

Mr. W. B. G. LAIDLAW: On a point of order, Sir. I find that there is no quorum now.

Mr. PRESIDENT: Ring the bell.

(Many honourable members came in and quorum was formed.)

Mr. PRESIDENT: Order, order. I want to remind honourable members that there is no provision in the Bengal Legislative Council Procedure Rules for ringing the bell and for the Chair to wait till quorum is formed. It is the duty of the honourable members to make it a point, if the business of the House is to continue, that there is at least a quorum. I find, on a similar occasion, the Chair in the Central Legislature observed as follows:—

"It is therefore necessary to remind honourable members that there is no rule which requires the Chair to wait till the quorum is formed and it is open to the Chair to adjourn the House if it finds, on a count being taken, that there is no quorum".

Similarly, on another occasion the Chair remarked:—

"There is no standing order which requires the Chair to have the bell rung. If those who are interested to promote a particular legislation or any other measure do not take care to see that the quorum is formed, they must be prepared to take the consequences".

So, I warn the House that in future I may not ask the bell to be rung. It is their business to see that there is at least a quorum.

Yes, Sir Bijoy.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, in support of my motion I submit that this Bill would not and should not be passed without first referring it to a Select Committee. Sir, the Bengal Land

Revenue Sale Act has been in operation for nearly three quarters of a century and it has been working well. Now my honourable friend has suddenly discovered that it is operating harshly on co-sharer landlords and so he wants to make a provision for notice on them. Of course, what I suggest is that the Bill be referred to a Select Committee so that even if it becomes necessary to make such a provision the Select Committee should first be allowed to go into the details of the proposal and to make proper recommendations. With these few words, I commend my amendment to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that the Bengal Land Revenue Sale Amending Bill, 1938, be referred to a Select Committee consisting of—

(1) Khan Bahadur M. Abdul Karim,
(2) Khan Sahib Abdul Hamid Chowdhury,
(3) Khan Bahadur Saiyed Muazzamuddin Hosain,
(4) Khan Bahadur Naziruddin Ahmad,
(5) Mr. Kader Baksh,
(6) Mr. E. C. Ormond,
(7) Raja Bhupendra Narayan Sinha Bahadur,
(8) Mr. Kamini Kumar Dutta,
(9) Mr. Naresh Nath Mookerjee,
(10) Rai Manmatha Nath Bose Bahadur, and
(11) the mover,

with instructions to submit their report by the 30th April, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: In view of what has fallen from the Hon'ble Minister, I beg leave of the House to withdraw my motion and accept the motion of the Hon'ble Minister.

Mr. PRESIDENT: You cannot withdraw your motion at this stage. I shall put the amendment first.

Mr. KAMINI KUMAR DUTTA: I think, Sir, it was settled that in the constitution of a Select Committee members taken from each group should be in proportion to their strength. So far as the motion before the House is concerned, I thought that my party, viz., the Congress Party, should be able to contribute at least three members, but I find that only two members have been taken from my party.

Mr. PRESIDENT: I hope in future the Government will see that there may be proper and proportionate representation, according to the relative strength of each party.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir. If there has been a miscalculation, I shall try to be more accurate in future.

Mr. RANAJIT PAL CHOWDHURY: Why not do it now?

Mr. PRESIDENT: The question before the House is: that the Bill be referred to a Select Committee consisting of—

(1) Khan Bahadur M. Abdul Karim,
(2) Khan Sahib Abdul Hamid Chowdhury,
(3) Khan Bahadur Saiyed Muazzamuddin Hosain,
(4) Khan Bahadur Naziruddin Ahmad,
(5) Mr. Kader Baksh,
(6) Mr. E. C. Ormond,
(7) Raja Bhupendra Narayan Sinha Bahadur,
(8) Mr. Kamini Kumar Dutta,
(9) Mr. Naresh Nath Mookerjee,
(10) Rai Monmatha Nath Bose Bahadur, and
(11) the mover,

with instructions to submit their report by the 30th April, 1940, and that the number of members whose presence shall be necessary to constitute a quorum, shall be five.

(The motion was agreed to.)

The Bengal Water Hyacinth Amending Bill, 1938.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: I beg to move that the Bill be taken into consideration.

Sir, it is a very short Bill. The Bengal Water Hyacinth Act itself has practically remained a dead letter but it can be made useful at least in some parts of the country, if this amendment be made in one section of the Act. There is a provision in the Act that the Collector can order erection of barriers or bunds for keeping out the water hyacinth, but there is no provision for realisation of cost, i.e., who will pay the cost, and how is the cost to be realised. This amendment seeks only to fill up this gap. It provides that the Collector may ask the President of any Union Board to prepare the estimate of cost for

construction and maintenance of fences, etc., and to assess it on the persons who are going to be benefited by this according to the proportion of benefit that will accrue to each and that the amount so assessed will be made final after the disposal of the objections to be heard by the Circle Officer. It will be realisable just like the Union Board rate or according to the procedure laid down in section 12 of the Act. That is the only thing that it seeks to provide and I think if this short amendment be made in the Act, a large part of the country where water hyacinth abounds will be protected and people will join together and erect bunds and pay the cost through the Union Boards.

With these words, Sir, I commend my Bill for the consideration of the House.

Mr. PRESIDENT: Motion moved: that the Bengal Water Hyacinth Amending Bill, 1938, be taken into consideration.

The Hon'ble Mr. TAMIZUDDIN KHAN: I beg to move that the Bengal Water Hyacinth Amending Bill, 1938, be referred to a Select Committee consisting of—

(1) Khan Bahadur Saiyed Muazzamuddin Hosain,
(2) Mr. E. C. Ormond,
(3) Mr. Kamini Kumar Dutta,
(4) Rai Radhica Bhusan Roy Bahadur,
(5) Mr. Lalit Chandra Das,
(6) Mr. Amulyadhone Roy,
(7) Khan Bahadur Rezzaqul Haider Chowdhury,
(8) Khan Bahadur Mukhlesur Rahman,
(9) Rai Sahib Indu Bhusan Sarker,
(10) Mr. Khorshed Alam Choudhury, and
(11) the mover,

with instructions to submit their report by the 31st July, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

Sir, the principle of the Bill is acceptable to Government. But certain changes of a drafting nature seem to be necessary. Although the Bill looks simple there being only one main clause, as a matter of fact it is not so simple as it appears. I am afraid the principal clause, that is clause 4, will have to be split up into three or four clauses, the provisions made thereunder will have to be very carefully considered and probably certain changes will have to be made. I, therefore, think that the Bill should go to a Select Committee to be carefully considered

by them. I also hope that my honourable friend will have no objection to the Bill being referred to a Select Committee. As I have already said, Government accept the principle underlying the Bill.

With these few words, I move my motion for reference to Select Committee and request the honourable mover either to withdraw his motion or to accept my amendment.

Mr. PRESIDENT: Amendment moved: that the Bill be referred to a Select Committee consisting of—

(1) Khan Bahadur Saiyed Muazzamuddin Hosain,
(2) Mr. E. C. Ormond,
(3) Mr. Kamini Kumar Dutta,
(4) Rai Radhica Bhusan Roy Bahadur,
(5) Mr. Lalit Chandra Das,
(6) Mr. Amulyadhone Roy,
(7) Khan Bahadur Rezzaqul Haider Chowdhury,
(8) Khan Bahadur Mukhlesur Rahman,
(9) Rai Sahib Indu Bhusan Sarker,
(10) Mr. Khorshed Alam Choudhury, and
(11) the mover,

with instructions to submit their report by the 31st July, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

(After a pause.)

The question before the House is: that the Bengal Water Hyacinth Amending Bill, 1938, be referred to a Select Committee consisting of—

(1) Khan Bahadur Saiyed Muazzamuddin Hosain,
(2) Mr. E. C. Ormond,
(3) Mr. Kamini Kumar Dutta,
(4) Rai Radhica Bhusan Roy Bahadur,
(5) Mr. Lalit Chandra Das,
(6) Mr. Amulyadhone Roy,
(7) Khan Bahadur Rezzaqul Haider Chowdhury,
(8) Khan Bahadur Mukhlesur Rahman,
(9) Rai Sahib Indu Bhusan Sarker,
(10) Mr. Khorshed Alam Choudhury, and
(11) the mover,

with instructions to submit their report by the 31st July, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

(The motion was agreed to.)

The Bengal Municipal (Amendment) Bill, 1937.

Mr. PRESIDENT: Mr. Nur Ahmed's motion relating to this Bill seems to be out of order. Mr. Nur Ahmed, when did you give notice of this motion?

Mr. NUR AHMED: On the 16th June last.

Mr. PRESIDENT: Necessarily, that notice has lapsed, because you were not present when I called you on the last occasion.

Mr. NUR AHMED: Sir, as you know I was busy elsewhere.

Mr. PRESIDENT: However, I allow you to move it, as I know you were busy with your election.

Mr. NUR AHMED: I beg to move that the Bill be referred to a Select Committee consisting of—

(1) The Hon'ble Nawab Khwaja Habibullah Bahadur, Minister in charge of the Public Health and Local Self-Government Department,
(2) Khan Bahadur Rezzaqul Haider Chowdhury,
(3) Mr. Kamini Kumar Dutta,
(4) Rai Keshab Chandra Banerjee Bahadur,
(5) Mr. H. C. A. Hunter,
(6) Begum Hamida Momin,
(7) Mr. Hamidul Huq Chowdhury,
(8) Mr. Latafat Hossain,
(9) Khan Bahadur Saiyed Muazzamuddin Hosain,
(10) Maulana Muhammad Akram Khan, and
(11) the mover,

with instructions to submit their report within three months from the date of reference and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

Sir, this Bill has come before this House more than once——

Mr. PRESIDENT: Order, order. May I refer you to section 56(*1*) of the Bengal Legislative Council Procedure Rules, where it is definitely stated that the appointment of a Committee should be in such a manner as to represent, as far as possible, the different parties in the Council? You have only taken one member from the Congress Party. So, I rule this motion is now out of order.

The Bengal Agricultural Debtors (Amendment) Bill, 1938.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: I beg to move that the Bill be referred to a Select Committee constisting of—

(1) The Hon'ble Mr. Mukunda Behary Mullick, Minister in charge of the Co-operative Credit and Rural Indebtedness Department,

(2) Khan Bahadur M. Abdul Karim,

(3) Mr. Naresh Nath Mookerji,

(4) Mr. Humayun Kabir,

(5) Mr. Kamini Kumar Dutta,

(6) Mr. Sachindra Narayan Sanyal,

(7) Khan Bahadur Ataur Rahman,

(8) Raja Bhupendra Narayan Sinha Bahadur,

(9) Khan Bahadur Mukhlesur Rahman,

(10) Mr. E. C. Ormond, and

(11) the mover,

with instructions to submit their report by the 31st July, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

Sir, this Bill really seeks to introduce some substantial changes in order that the Bengal Agricultural Debtors Act may be of real benefit to the agriculturists of Bengal. Sir, there are three main defects in the Act which we want to remove. The one is that there is no provision for compelling the creditors to come and file a statement as to the debts of the agriculturists just like Court of Wards. When the Court of Wards takes the charge of any estate, a notice is issued in the Gazette calling upon all the creditors to submit a statement of their claims. So, on the analogy of that, it is provided in the Bill that wherever a debt settlement board is established, a notice should be issued asking all the creditors who are entitled to get money from the agriculturists to file their statements, saying how much each agriculturist owes to them. This is one provision.

For many reasons some of the debtors do not come to the debt settlement boards at all, because various devices are followed so that they may not come before them. It is, therefore, very necessary, especially in view of the illiteracy of the agriculturists, that these people should be made to come and file their statements as to the debts which each agriculturist owes to them.

There is no provision about a compulsory settlement unless 40 per cent. of the debt has been amicably settled. Here also, I do not see why the condition of 40 per cent. amicable settlement has been imposed. Why should not the debt settlement boards be able to settle the debt themselves on principles of equity and fair-play, instead of merely trying to settle by compromise? They should be given sufficient powers, so that the debts may be settled even without compromise; otherwise it is very difficult to prevail upon both the parties to compromise in every case. My idea is that in 50 per cent. of the cases no compromise will take place. So, this is one of the provisions which is suggested in the Bill.

The other provision is about the clearance of debt. There is a provision about clearing the debt by instalments up to 20 years, but we know that 60 per cent. of the agriculturists have uneconomic holdings, and so if their debts are to be cleared, mere fixation of instalments will not do. They will certainly fail to pay their instalments, and the result will be that their holding will be again sold in execution of a certificate decree. To avoid that and in order that they may be enabled to actually pay, I have provided that 1/3 of the holding of such agriculturists may be given to the creditors for enjoyment for a certain number of years, not exceeding 20 years, within which the amount which is settled will be cleared off from the usufruct of the land so enjoyed. So, in the way as contemplated in this Bill, clearance of debt will be possible. Otherwise, it will remain merely a pious wish and 60 per cent. of the agriculturists will never be able to clear off their debts.

These, Sir, are the main provisions of the Bill which I have placed before the House and which I have moved for reference to a Select Committee. I hope, Sir, that the House will agree with me that the Bill should be referred to a Select Committee, as proposed by me.

Mr. PRESIDENT: Motion moved that the Bengal Agricultural Debtors (Amendment) Bill, 1938, be referred to a Select Committee consisting of—

(1) The Hon'ble Mr. Mukunda Behary Mullick, Minister in charge of the Co-operative Credit and Rural Indebtedness Department,

(2) Khan Bahadur M. Abdul Karim,

(3) Mr. Naresh Nath Mookerji,

(4) Mr. Humayun Kabir,

(5) Mr. Kamini Kumar Dutta,

(6) Mr. Sachindra Narayan Sanyal,

(7) Khan Bahadur Ataur Rahman,

(8) Raja Bhupendra Narayan Sinha Bahadur,

(9) Khan Bahadur Mukhlesur Rahman,

(10) Mr. E. C. Ormond, and

(11) the mover,

with instructions to submit their report by the 31st July, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st December, 1940.

Mr. PRESIDENT: Amendment moved: that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st December, 1940.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Mr. President, Sir, I would like just to speak a few words on this amendment which has been moved by my friend, Mr. Mesbahuddin Ahmed. Sir, so far as the object of the honourable mover of this Bill is concerned, I can assure him that I have every sympathy with him. The question of rural indebtedness is a pressing one indeed in this unfortunate province of ours. It was found out some years back by the Board of Economic Enquiry that this indebtedness amounted to about 100 crores of rupees. I am sure my honourable friend, the Khan Bahadur Sahib, will realize from the experience gained by him of rural affairs of this province in other capacities before he came to this Chamber, that the problem must have put considerable difficulties in the ways of many. The question is how to meet this problem and to free these innumerable village agriculturists from the burden of debt which, I may say, is chronic. The honourable mover has suggested in this motion some changes in the existing Act and he has been good enough to say that the provisions of the Bill seek to introduce substantial changes in the existing Act of 1935. He has drawn an analogy from the procedure followed under the Court

of Wards Act. May I remind him that the Court of Wards Act deals with only a handful of persons, if I may use such an expression, of this province, while the Agricultural Debtors Act of 1935 deals with lakhs and lakhs of persons of this province, persons who are not only indebted to one man or two men but are indebted to five and even to 20 to 25 persons and their debts are of diverse descriptions. Invariably, they are indebted to their landlords; they are indebted to the shopkeepers, indebted to their neighbour and indeed to various other persons.

Now, if that is the position, I will appeal to his own experience of the affairs of this province whether an analogy of that type can be drawn between the two, viz., the provisions contained in the Court of Wards Act on the one hand and those in the Bengal Agricultural Debtors Act on the other.

Now, Sir, while expressing my sympathy with the object and having the highest respect for the feelings of my honourable friend, I submit to the House, Sir, that the provisions sought to be introduced in the Act will not solve the real difficulty. Sir, the Act of 1935 under which we have been working for about three years now lays it down that this settlement is to be on a voluntary basis. The Act of 1935 does not say anything of "compulsion." It is left entirely to the voluntary arrangement come to between the debtor and the creditor before a Board consisting of persons who know the conditions of both the parties thoroughly. Now, Sir, when my honourable friend the Khan Bahadur Sahib seeks to introduce a measure of "compulsion", I have to submit, with all respect to him, that these provisions go against the very principle of the original Act. The mover can say that this is an amending Bill, but I submit, Sir, this can never be said to be an amendment of the original Act. The original Act has not provided for any "compulsory" measures. It is left to the voluntary arrangement between the parties. Then, Sir, he has been good enough also to admit that it is not possible for the indebted agriculturists to pay off their debts even by instalments. Therefore, the result will be this, that the awards that are promulgated by the Boards will not be respected and the further effect will be that the creditors will be compelled to take to the provisions of section 25 of the existing Act, come before the Certificate Officer and ask for a certificate on the basis of which the holding will be put to sale. That may be one side of the question. But what is the remedy that my honourable friend suggests? He suggests that since these men will not be able to pay off their debts even after a settlement on a voluntary basis, a part of the holding should be made over to the creditors so that out of the usufruct so derived the creditors of diverse descriptions may be satisfied.

The question now is: whether that is a practical and feasible proposition. If the man has not got any income or has not been able to save enough to be able to meet the instalments of the year which have been made on a voluntary basis, is it, I submit with all respect to my honourable friend once again, a feasible proposition to ask a man of that nature to part with a portion of his holding and to ask the creditors of various descriptions to be satisfied with a portion of the land? I hold in my hand a copy of the book which my honourable friend, Khan Bahadur Saiyed Muazzamuddin Hosain, was good enough to present to me, entitled "Economic Problems of Rural Bengal" wherein he has given all the figures to show that the holdings are uneconomic and therefore it cannot be expected of them that they will be able to pay off all their debts. Sir, it is one thing for the Legislature representing various interests of the province to say that all these debts are to be wiped off. I can understand that proposition, but is it feasible to say to a creditor, to a landlord, to a shopkeeper, who all have been either good or bad enough to advance their moneys, "No, you won't get back the amount. You must be satisfied with a portion of the land (which may be uneconomic). You won't get anything more"? The question is: whether it will be a feasible proposition for any responsible member of the House to put forward and to enforce compulsion as indicated above on this class of people who have been good enough in times of distress of their neighbours to come forward with their helping hand. I submit, Sir, that is not a feasible proposition. On the other hand, Sir, I must not be misunderstood to say that I am rejecting all his suggestions. What I beg to submit to the House is: that these are suggestions which require close examination without which it will be very difficult for Government to accept or to suggest any concrete proposal to the House for its consideration all at once.

Now, Sir, if we look to the provisions of the Bill which is before the House, you will see, Sir, that the provisions suggested are of a very far-reaching character. Now, if we start with clause 4 which seeks to amend section 3 of the existing Act, it indicates that "as soon as an intimation is given to the civil court, the court shall stay all the proceedings before it." Then again, it suggests that "if in a written petition it is pointed out to a Civil Court that it is a case of agricultural debt or an arrear of rent, then also the Court is expected to stay its hands."

Now, Sir, that is a proposition which requires very close examination. I can understand what "arrear of rent" means, but the difficulty arises with regard to "agricultural debt." The one question whether an applicant is an agriculturist or not has been giving us awful trouble for the last three years. It has been the subject-matter of a very long and detailed investigation before the Boards and

we have had instances where, after the investigation has been concluded by the Board and some decison announced, the matter has been brought before a Court of Appeal consisting of officers with judicial experience. I have come across,—and those officers have come across,—some cases where they have not been able to determine on the facts before them as to whether under the circumstances the applicant can be said to be an agriculturist. The existing Act has no doubt given the definition. Even that definition has not been found very satisfactory because the views expressed on the floor of this House as also elsewhere show considerable doubt as to what the definition of a true agriculturist ought to be. That being the position, to leave it at this, viz., to suggest that it is an agricultural debt and therefore the Civil Court ought to stay its hands, I submit, Sir, is a proposition which cannot be accepted all at once without a close examination.

Then in the next instance my honourable friend suggests a further modification of the existing sections 8, 9 and 10 of the Act. Section 8 authorizes a person to put in an application. The other sections say something about the submission of statements. If you be good enough, Sir, to look to the substituted clause of the honourable mover of this Bill, you will find that in clause 8 he suggests that when a Board is established, the creditors are expected to come within three months before the Board with all their claims. Fancy for a moment as to what all this will mean. A big estate which has to deal with thousands and thousands of tenants or a businessman who has got a large number of clients to deal with, is it a feasible proposition for them and for people of that nature to be asked to come before a Board within three months of its establishment with all their claims? And if they did not do so, it is suggested that their claims might be barred. Then, if you consider the provisions of clause 10 in this amending Bill, you will find, Sir, that a creditor is expected to make a statement of various details. I will not disturb the House, Sir, with a whole catalogue, but I would only place before the House two or three of these clauses.

Sub-clause (*d*) of clause 10 in the amendment says:—

"History of each debt with particulars of the original principal and the rate of interest chargeable by a person (who is in the unfortunate position of a creditor or a landlord) is asked for and he shall put in a statement of all the debts of his debtor whether the debtor owes the debt to him alone or to somebody else along with the other creditor."

Then, again, look at sub-clause (*g*), particulars of properties covered by any Civil Court or Certificate Court sale certificate, (*j*) particulars of supplementary income of the debtor if known, and (*k*)

a declaration that agriculture is the primary means of livelihood of the debtor. All these, if I have been able to follow the thing aright, are expected from the creditors who will have to submit a statement before the board under these different heads.

Mr. PRESIDENT: I would like to interrupt the Hon'ble Minister for a minute. May I refer him to section 53? At this stage he can deal with the general principles of the Bill and not the details of it.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I was just going to point out why I cannot support this motion. I submit that these are provisions which require close examination not only by the members of this House, but without meaning any disrespect to them, by people outside as well. The Bill affects the landlords, it affects the creditors of all descriptions and it affects the Boards as well. My friend knows that we are trying our very best to do this job, namely, to arrive at a settlement of all the debts on a voluntary basis. In reply to a question put to me by Mr. Lalit Chandra Das, I believe in January last, and also by my friend Mr. Nur Ahmed, I gave the number of boards established, the number of applications received, the amount of the total claims, the amount of claim as determined and the amount for which awards have been made. If the honourable members will remember the answer that I gave, they will find that up to now the boards have received over 12,84,000 applications. These applications involve a claim of a total of 40,48 lakhs. Of these, they have disposed of about 5 lakhs applications involving an amount of Rs. 8 crores and several lakhs. This 8 crores has been brought down to 4 crores and several lakhs by settlement on a voluntary basis; under section 19(*1*)(*a*), the award has been made at 3¼ crores. My friends will find that the creditors and the debtors have tried their very best through these boards to make an amicable arrangement for the settlement of their debts, and it must be thought very satisfactory that the boards have been able to bring down the debts to about 33 per cent. It cannot therefore be maintained that they have not been able to effect any valid settlement even working on a voluntary basis.

I, therefore, submit without taking any further time of the House that the principles of the Bill require close examination, and that although I have every sympathy with the objects of the Bill, I support the amendment moved by my friend Mr. Mesbahuddin Ahmed.

Mr. PRESIDENT: The question before the House is: that the Bengal Agricultural Debtors (Amendment) Bill, 1938, be circulated for the purpose of eliciting opinion thereon by the 31st December, 1940.

(The motion was agreed to.)

The Bengal Abolition of Dowry Bill, 1938.

Mr. PRESIDENT: The House will now resume consideration of the Anti-Dowry Bill which was postponed.

Rai Bahadur KESHAB CHANDRA BANERJEE: I want to say something on the Dowry Bill.

Mr. PRESIDENT: The amendment was not moved.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The amendment was under consideration, but the discussion was adjourned in order to enable the members on either side to discuss the matter amongst themselves and to arrive at a settlement.

Mr. PRESIDENT: Rai Bahadur Surendra Narayan Sinha.

Rai Bahadur SURENDRA NARAYAN SINHA: We would like to hear Sir Bijoy.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I rise to speak on this motion with a full sense of responsibility as a Hindu. First of all, I think that a Bill of this character should not be placed on the Statute Book without proper consideration for more than one reason. I do not think that the matter has been before the public for a sufficiently long time nor has public attention been focussed on the provisions of this Bill. The honourable members may remember that on account of the fact that the honourable member in charge of this Bill will soon retire from this House, the Bill was referred to a Select Committee only last week or about ten days ago and the Select Committee was asked to submit its report at a very short notice. Naturally, the public had not sufficient time to consider this question while the Select Committee on this Bill was sitting. The main justification for moving for re-committal of this Bill to a Select Committee is this: that if the Select Committee so desires it has got the statutory right to examine witnesses; it may also consult public opinion if it so desires. So, by reference to Select Committee the public are not debarred from expressing their views on this important measure.

The Select Committee has made very substantial alterations in the provisions of this Bill, namely, it has excluded one important community—the Muhammadan community—from the purview of this Bill. That itself in my humble opinion is a sufficient justification for recommitting this Bill to the Select Committee so that the public may have opportunities, at least the Hindu public who are going to be vitally affected by this measure, of expressing their views on this Bill.

Now, I come back to the provisions of the Bill. I do not for a moment deny that the dowry system is a great evil and the sooner it is eradicated the better. But the fact cannot be ignored that it has developed through ages; it has developed unfortunately with the development of our society and, personally, I doubt very much whether merely by placing this measure on the Statute Book we can eradicate the evil. It will require a change in our mentality, it will require a change in our marriage system, it will require a change in our outlook, it will require a good deal of moral pressure before an evil of this nature which has been in the society for ages can be done away with. It is a measure of far-reaching consequence and however much it may be useful, it should not be placed on the Statute Book without sufficient consideration and without giving the public adequate opportunities to express their views on this matter. Without the co-operation of the people it cannot be made effective.

These are the grounds on which I support the motion for the recommittal of the Bill to the Select Committee. It is true that the honourable member in charge of the Bill will retire soon and as such the Bill will die automatically but that does not mean that the Bill cannot be reintroduced in this House if it is considered necessary. The dowry system is a great evil and I am perfectly certain that those who are anxious to remove it will lose no opportunity to bring in a comprehensive measure at the earliest possible moment so that this Legislature may give it a proper consideration and place it in a proper form on the Statute Book. So, the fact that the honourable member is retiring is to my mind not a sufficient ground for a hasty legislation especially when it is of such a far-reaching consequence.

With these words, I support the amendment moved by my honourable colleague Nawab Musharruff Hossain for recommitting this Bill to the Select Committee.

Mr. W. B. C. LAIDLAW: For reasons similar to those put forward by Sir Nazimuddin, I feel some diffidence in speaking on this subject because it is not one which directly at any rate, affects our community and although dowries have to be given and taken right up to the present day, it is generally a matter which is carefully considered and the amount is seldom beyond the means of the giver. My remarks on the merits and demerits of the dowry system will be limited to two. In the first place, I see no objection to the principle, provided the dowries are voluntary and within the means of the donor. In the second place I realise, as we all do, the distress and impoverishment so often caused in practice by unwilling gifts of amounts entirely disproportionate to the means of the donor. No doubt, we shall hear more pros and cons from other honourable

members who are in a better position than I to appreciate the implications. I propose, therefore, merely to put before the House certain facts and principles which I think should be taken into consideration in this discussion.

Now, Sir, dowry-giving is not confined to this province, not even to India, nor is it essentially a modern custom. For this reason it may perhaps be doubted whether a custom of some antiquity and universality can be successfully prohibited by an Act of the Legislature, unless it has behind it the force of a strong volume of public opinion. It has been said, "you cannot change human nature by an Act of Parliament" and my own feeling is that matters of pure social custom are better controlled and regulated by public opinion than by law. On the other hand, I appreciate that law can be used to reinforce public opinion provided this is sufficiently strong and widespread. It is about that that I am in some doubt, for the very fact that extortionate demands are made in connection with dowries and that they are met, rather suggests that public opinion is not condemnatory but acquiescent.

If this suspicion is justified—if it is the fact that public opinion has not been sufficiently aroused—I can see no alternative but that the Bill when and if it becomes law will become a dead letter.

Further, I feel that means may be found of evading in practice the prescriptions of the Bill which would further tend to the Act's falling into desuetude, as Sir Nazimuddin has explained to this House.

The principle I have at heart is that it is most undesirable to burden the Statute Book with laws that cannot reasonably be expected to be fully enforced; since any Act disregarded creates a disregard of the sanctity of law.

Subject, therefore, to the arguments which may be advanced by other honourable members, my party propose to remain neutral in the event of the Bill going forward. They are in sympathy with the attempt to abolish the onerous demands made now-a-days but they think that such demands should be banned by public opinion, and that in any event an Act of this nature can be successful only if backed up by strong public opinion; and finally they fear that if the Act were ineffective there would be undesirable repercussions on the public's attitude to law. As a matter of procedure, I would personally prefer to see the Bill withdrawn rather than that it should go through this procedure of being referred to a Select Committee of which since the mover himself will shortly retire, the Bill will in any case become a dead letter. I think it would be more seemly if the Bill is withdrawn. At the same time, I think it would be right if the Government took

notice of this discussion and did what they can in the direction of propaganda work to try to eradicate the evils which have arisen with the dowry system.

Rai KESHAB CHANDRA BANERJEE Bahadur: Mr. President, Sir, I had no intention of participating in the debate, but I am prompted by the observations which the Hon'ble Sir Nazimuddin has made to speak a few words on the provisions of this measure. Sir Nazimuddin has said that the Law of Inheritance should also be considered along with the question of dowry. Sir, I cannot understand how the question of the amendment of the Law of Inheritance is connected with the Dowry Bill. He forgets that there are different laws for different communities. The law which governs his own community does not apply to the Hindu community. In fact, the Hindu Law is based on the Holy Sastras and certainly we cannot—in fact we have no power—interfere with our religious Scriptures prescribed by the Rishis of old who were not ordinary human beings like ourselves. They were saints and could hold direct communion with God which neither Sir Nazimuddin nor I can do. These sages prescribed certain rules and laws for the governance of the Hindu community. However, that is a different matter altogether.

Now, so far as this Bill is concerned, I should like to say that it is not free from objection. Apart from the defects in drafting, there are many among us who are on principle opposed to social legislation and, as the Hon'ble Sir Bijoy Prasad has said, no hasty legislation should be undertaken in order to bring pressure to bear upon the society to change the age-long custom in regard to marriages. Sir, everybody here agrees with the sponsor of this Bill that the dowry evil exists and exists in a serious form and that it should be completely eradicated from our society. That is no reason why we should rashly embark upon legislation of this nature which ultimately may prove to be a great mistake.

Sir, nobody regrets more than myself the impending retirement of Rai Bahadur Surendra Narayan Sinha from this Council. Even if he retires, there will be no difficulty in bringing forward a similar measure in future, as any member can introduce a Bill of this kind and the time that will elapse between now and the next session of the Council will enable us to consider the pros and cons of the proposal and to try to improve it as far as practicable. Sir, Sir Bijoy has already stated that we should take the public into our confidence, but within the limited time at our disposal, it has not been possible to consult public opinion more fully. Sir, as the opinions so far received on the provisions of the Bill differ widely, some favouring legislation, while others holding the view that the problem should be left to the Hindu society for solution, it is hoped that by gradual process of

evolution the evil will ultimately disappear to the relief of all concerned. Therefore, I think, Sir, it would be prudent and wise on the part of the mover of the Bill to agree to the suggestion of recommittal.

With these few words, Sir, I support the amendment of the Nawab Bahadur.

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I have heard with interest the remarks made by several members on the floor of this House. Sir, I for myself know of large sections of people, particularly different sects of the Hindu community, who are in favour of having a legislation like this. Though there are differences of opinion,—as there must be in every case,—if the Bill is passed into law, the purpose of the Bill will be somewhat ineffective, but I believe, Sir, that if any such measure is passed, it will at least help in checking the evil system of dowry which is injurious to the Hindu families of this province, and it will also have some moral effect on the Hindu community in general and be of help especially to the poorer classes who suffer more than the rich people. But, after hearing the views expressed by some of the honourable members of this House and the Cabinet, I think that there is no other alternative left for me but to agree to the suggestion of the Hon'ble Nawab Bahadur.

Mr. PRESIDENT: The question before the House is: that the Bengal Abolition of Dowry Bill, 1938, be recommitted to the same Select Committee with instructions to submit their report by the 29th July, 1940, and that the quorum of the Select Committee be fixed as before.

(The motion was agreed to.)

The Bengal Emergency Rent Remission Bill, 1938.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I beg to move that the Bengal Emergency Rent Remission Bill, 1938, be referred to a Select Committee consisting of—

(1) The Hon'ble Sir Bijoy Prasad Singh Roy, Minister in charge of the Revenue Department,

(2) Mr. E. C. Ormond,

(3) Mr. Kamini Kumar Dutta,

(4) Mr. Lalit Chandra Das,

(5) Raja Bhupendra Narayan Sinha Bahadur,

(6) Mr. Naresh Nath Mookerji,

(7) Mr. Humayun Kabir,

(8) Mr. Kader Baksh,

(9) Khan Bahadur Rezzaqul Haider Chowdhury,

(10) Khan Bahadur Ataur Rahman, and

(11) the mover,

with instructions to submit their report by the 31st July, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

Sir, the main object of the Bill is to give relief to the tenant at times of agricultural calamity by granting them remission of rent. Sir, this sort of remission of rent the tenants are entitled to according to the rules in the *khas mahal* or in the estates which are under Government management. But in the case of the permanently-settled areas there is no such provision so that the tenants may claim it as a matter of course whenever there is failure of crops or other agricultural calamity. Sir, it is a very necessary measure and we do not see why, because there has been a Permanent Settlement, the tenants should be labouring under a disadvantage. These tenants have done nothing for which they should merit this sort of treatment that they will not get any remission of rent even when there is agricultural calamity only because there has been a Permanent Settlement with the zemindars. This cannot be justified in this twentieth century. Sir, agricultural calamities do happen in parts of Bengal and there is a Board's circular to the effect that if a zemindar allows remisison of rent to his tenants, he can in turn ask Government to allow him proportionate remission in revenue. This is all very good so far as it goes, but, for obvious reasons, the zemindar never applies for that remission. Revenue on an average being only 20 per cent. of rent, if the zemindar is to ask for a remission of twenty rupees in revenue, he will have to grant to the raiyats remission in rent to the extent of one hundred rupees. In other words, by allowing remission of rent of a hundred rupees to his tenants, the zemindar would get remission in revenue only to the extent of Rs. 20. So, it naturally follows that no zemindar would ask for such a conditional remission. That is why the Board's circular has remained a dead letter. Under the circumstances, it is all the more necessary that Government should intervene and should make certain laws so that even without the zemindar's applying for such remission in revenue, Government may allow remission to the tenants and also proportionate remission in revenue to the zemindars. We find, Sir, that such a procedure is prevalent in the permanently-settled areas of the Benares district in the United Provinces, Government interferes, whenever there is agricultural calamity, and allows remission of rent to the tenants and also proportionate remission of revenue to the landlord. Sir, this Bill seeks to make provision to that end and it is an absolutely justifiable measure. I have moved it for reference to a Select Committee which, I hope, will be accepted by the House.

Mr. PRESIDENT: Motion moved: that the Bengal Emergency Rent Remission Bill, 1938, be referred to a Select Committee consisting of—

(1) The Hon'ble Sir Bijoy Prasad Singh Roy, Minister in charge of the Revenue Department,

(2) Mr. E. C. Ormond,

(3) Mr. Kamini Kumar Dutta,

(4) Mr. Lalit Chandra Das,

(5) Raja Bhupendra Narayan Sinha Bahadur,

(6) Mr. Naresh Nath Mookerji,

(7) Mr. Humayun Kabir,

(8) Mr. Kader Baksh,

(9) Khan Bahadur Rezzaqul Haider Chowdhury,

(10) Khan Bahadur Ataur Rahman, and

(11) the mover,

with instructions to submit their report by the 31st July, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to move: that the Bengal Emergency Rent Remission Bill, 1938, be circulated for the purpose of eliciting opinion thereon by the 31st December, 1940.

Sir, my honourable friend, Khan Bahadur Saiyed Muazzamuddin Hosain, an ex-Settlement Officer, evidently stands for the unsettlement of everything. It will appear from the Objects and Reasons of his Bill that though he has been responsible for several fantastic legislations, probably he surpasses himself in this Bill. Sir, I will just draw the attention of the House to the absurdity of his proposal, to the far-reaching changes that he suggests, and the inequity of the measure that is desired now to be placed on the Statute Book. First of all, my honourable friend suggests in his Bill that whenever any general failure of crops occurs in any village to the extent of not less than 50 per cent. of the normal yield for reasons not within the control of the cultivators, the cultivating *raiyats*, whether they are occupancy or non-occupancy *raiyats* or under-*raiyats*, shall be entitled to get remission of rent in proportion to the ratio of failure of yield, and the Collector of the district, on his own initiative, or, on the application of the tenants or their representatives in the Legislature, may (mark the words, Sir, "representatives in the Legislature") allow such a remission by publishing a notification in the Official Gazette and so on.

He proposes that the Collector must be sure that there has been a 50 per cent. failure of the principal crop. How will he find that there has been a 50 per cent. failure of crops? My friend Khan Bahadur Muazzamuddin Hosain will at once say how do the Government find out that there has been a failure of crop in the *khas mahals*? My friend forgets that there are provisions for land revenue settlement in the temporarily-settled estates and *khas mahals*. Government maintain a large staff for land revenue settlement; Government have under them kanungoes and the whole hierarchy of revenue officers for keeping records, rate of rent and remissions in the *khas mahal* areas. There is no such staff for the permanently-settled estates where Government are only interested in the realisation of revenue. Government have to depend entirely either on the statement of the tenant or on the statement of the zemindar. Government have no records to act upon. The only reasonable method will be the crop-cutting experiments, and unless Government hold an elaborate crop-cutting experiment, it is difficult for them to come to a decision as to whether there has been a failure of crop by 25 or 50 per cent. or there is no failure of crop at all. That is the first absurdity in the proposal of my friend.

His second suggestion is that remission should be granted not merely on the application of the persons affected, namely, the tenants, but on the application of their representatives in the Legislatures. Now, I put it to my friend who is very secure in this House for the next 9 years' as to who is that representative, who is that imaginary person who has not got his eye fixed on the ballot box? Is it possible for any representative who comes through the machinery of election to come forward and say that there has been no failure of crop, who will say that the tenants must pay the full rent? It must be more than human for him to do so. That is another absurdity.

The third point is that the reduction of rent must not only be for the current year, but it must be given a retrospective effect. He wants to provide further that the remission allowed shall have retrospective effect in respect of tenancies of which rents have already been paid and that the landlord shall be bound to effect necessary adjustment when rent is next paid for such tenancies. These are the revolutionary changes in the land revenue and land tenure systems which my friend seeks to introduce by this Bill. I feel it is only fair that Government should obtain public opinion before taking a leap in the dark.

Mr. PRESIDENT: Amendment moved: that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st December, 1940.

Mr. HUMAYUN KABIR: I beg to oppose the amendment which has been moved by my honourable friend Sir Bijoy Prasad Singh Roy and support the original motion.

I would first of all devote a minute to the examination of some of the arguments which have been advanced by my honourable friend with respect to his motion for circulation. The first thing to which I shall draw the attention of the House is that this is a Bill which was introduced in the year 1938 and after two years we are again asked to send it for circulation in order to elicit opinion from the public. I would like the Hon'ble Minister to be honest about this matter. If he thinks that this Bill is as absurd as he has just now suggested, it would have been proper for him to come out openly and say that he is opposed to the principle of this Bill. It would have been proper for him to oppose this Bill. I think it is a subterfuge to take recourse to the procedure of sending it to circulation year after year. Two years have elapsed and we are again asked to send it for circulation. And who knows that at the end of the third year the Hon'ble Minister will not come forward with another motion for circulation? In this way, he will come forward at the end of the fourth year and then fifth year, and so on *ad infinitum*. Are we to understand, therefore, that Government have not got the courage to oppose this Bill and at the same time are not willing to accept the principle of the Bill? Is it an attempt to postpone it to the Greek Calends, simply because the Government lack the courage or honesty or both with regard to this particular Bill? If it is a bad Bill, by all means throw it out, and Government have got a sufficient majority to throw out a Bill which is regarded by them as bad. Sending it to circulation year after year only means that the Government dare not oppose this Bill openly, and we may as well say that the Bill is not perhaps so absurd as the Hon'ble Minister has himself just now suggested.

Sir, I would also in this connection refer to another remark of the Hon'ble Minister. The Hon'ble Minister a moment ago taunted the mover of this Bill with regard to the security which he has achieved as a result of his election to this House for 9 years. May I also pay the same compliment to the Hon'ble Minister and say that he also is immune from the vagaries of the ballot box for 9 years? Probably he has sought shelter in the more secure region of this Upper House because of this very difficulty which he has voiced so strongly in respect of this Bill. With regard to such progressive measures, I should like to say that he is not willing to accept them and at the same time he lacks the courage to oppose them. Are we to understand that he has with a far-reaching range of vision taken refuge in the Upper House for this very reason?

With regard to the point which the Hon'ble Minister raised—that it is absurd that there should be a reduction of rent, because there has been a failure of crop—the honourable the mover has made it perfectly clear in the course of his speech that everywhere the remission which is to be granted is to be granted to the tenant as well as to the landlord. Even now there is a provision that in case of famine or failure

of crop, remission is to be given to the tenant and the landlord. In case of famine, the tenant and the landlord are entitled to a certain amount of remission. But generally Government avoid that danger and refuse to declare a famine at all; when there is famine, they say that there is stringency and when there is stringency, they say that the crop reports are fairly good.

Then again, the Hon'ble Minister said that there was no way of knowing whether the crops were fair or not. I think the Hon'ble Minister does not take stock of the papers which the Government themselves publish. Every week Government publish a report in the Gazette—the Weekly Crop Report. Although the figures there are not specific, they are there all the same. It is a description in general terms, but why should not Government take steps to have more accurate reports?

There was also a great deal of protest in the Hon'ble Minister's speech about the unsettlement of settled things. Sir, we are living in the midst of unsettlement. Perhaps the Permanent Settlement will be unsettled very soon. Many are looking forward to that time when the Permanent Settlement will be a thing of the past. Many settled things, —things which are permanent to-day,—are becoming unsettled. There is an epidemic of unsettlement of settled things in Bengal. Is the Hon'ble Minister really afraid of unsettling the permanence of illiteracy, permanence of poverty, permanence of disease, permanence of hunger? Are these the matters of permanence which the Hon'ble Minister is afraid of unsettling? If the honourable mover of this Bill comes forward to unsettle one of the gravest hardships from which the tenants have to suffer to-day, Government cannot condemn him for unsettling a settled fact. We have unsettled many settled facts in this province. To-day India as a whole is unsettled. We all know that in the course of a year or two we shall see more unsettlement of settled facts.

One other observation of the Hon'ble Minister I think deserves some consideration. He wants to warn the members of the Legislature that the tenantry will not generally be willing to come forward and pay their rent. He says that once the principle is accepted that in a year of stringency the rent may be reduced, the tenants will not pay. I emphatically say that reverse is the case. It is because the rent is exorbitant to-day, because the tenant has to pay more than the proportionate share of what he actually produces——

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Question!

Mr. HUMAYUN KABIR: The Hon'ble Minister may go on questioning, but the facts are there. I shall go outside the province, because an example there is ready to hand. In the year 1931, when the Civil Disobedience Movement was on, the United Provinces Government agreed to a reduction of rent and the tenants were immediately

willing to pay and much of the arrears were cleared the moment the rent was reduced to a normal, proportionate and equitable basis. The honourable mover has pointed out that the provisions of the Rent Reduction Act of the United Provinces were applied in Benares with great success. I would request honourable members who have any comments to make to read their history again. It has always been the custom in India that one-third or one-fourth of the total produce has been the rent which the cultivator had to pay to the State. It has always been the custom that whenever there was a failure of crops, the King or the Ruler of the country exempted the tenants from paying their rent. We have never heard it said that at the time of the Moguls and the Nawabs, rents were not paid; they were paid, and I should say, promptly paid. It shows distrust of their own tenants on the part of the landlords to say that the tenants will not pay the rent even if it is reduced to an equitable rate. (Interruptions.) Again, Sir, that is the case because landlords like the honourable member who is interrupting me all the time have increased the rent out of all proportion. They have increased the rent about 4,000 per cent., as the honourable the mover of this Bill has pointed out. We all know from the records of the Permanent Settlement that rents have increased 40 times since the time of the Permanent Settlement. If we look at some of the figures there, there would be very little difference of opinion on this point. It is a fact that at the time of the Permanent Settlement, the zemindars had to pay about Rs. 3 crores as their revenue and the amount which they realised was only 10 per cent. in excess of what they paid to the State. To-day that position no longer holds. Even on the lowest estimate, the zemindars realise no less than Rs. 14 crores and, according to certain calculations, it is more than Rs. 14 crores that they realise from the tenants. Therefore, the extortion of the zemindars from the tenants has been exorbitant, and if an honourable member comes forward to move a Bill which will give relief temporarily and only when the Collector is satisfied that there has actually been a failure of crops, I do not think it lies with the Hon'ble Minister to come and say that the tenants will not pay their rents. If the tenants had not paid their rents, we would not have been where we are to-day, we would not have found money for the luxury which is becoming almost a necessity for so many of us. The whole course of the history of Bengal during the last 150 years would have been otherwise had the tenants not paid their rent duly. It is because the tenants paid their rents, and that even when they could not pay, that it has been possible to build up this kind of social structure, the kind of social culture which is peculiar to Bengal to-day. Perhaps some of the advantages of Bengal to-day are also due to that very fact, but let nobody say that the tenants of Bengal have not paid their dues. If is rank ingratitude, and more so for a landlord to say, that tenants have not paid their rent even when it was exorbitant and unjust.

I would like to draw the attention of the Hon'ble Minister to clause 4 on which he himself has concentrated in his criticism. This clause provides that rents can be reduced if the Collector is satisfied that there is a failure of crops and if there is an application from the tenantry or from the representatives of the tenantry. I would ask him particularly to note the word "and." If there is an application from the tenantry, rent would not necessarily be reduced. If there is an application from the representatives of the tenantry, rents will not necessarily be reduced. It is not at all a case like that, but on the contrary the case is that if there is such an application from the tenantry, and the Collector is satisfied, there will be reduction of rent. I think all members will agree that our tenantry are dumb and mute, and are not often able to take care of themselves. They do not know their rights and often cannot exercise them. If they make an application, it is because they are goaded by circumstances to do so. I think the Hon'ble Minister will have the fairness to admit that if there is an application from such quarters, it is because the circumstances are such that it is not possible for them to pay the rent. Such application would mark extreme desperation.

With regard to the representatives of the tenantry in the Legislature, I do not think it lies with the Hon'ble Minister or with any other member to take lightly the representatives of the tenantry in the Legislature. This House and other places of this type are constituted by such representatives and if the Hon'ble Minister is not prepared to take such representatives seriously, I think he has no right to be here——

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I rise on a point of personal explanation? I never suggested that I am not prepared to take the representative in the House seriously. My point was whether the rent should be reduced or not cannot be left to the representatives of the tenantry. Certainly there cannot be any representative who will have the courage to say that the rent should not be reduced——

Mr. PRESIDENT: Mr. Kabir, would you take much time still?

Mr. HUMAYUN KABIR: Yes, Sir.

Mr. PRESIDENT: Order, order. The House stands adjourned till 2-15 p.m. on Monday next.

Adjournment.

The Council then adjourned till 2-15 p.m. on Monday, the 1st April, 1940.

Members absent:

The following members were absent from the meeting held on the 29th March, 1940:—

(1) Mr. Hamidul Huq Chowdhury.
(2) Mr. Humayun Reza Chowdhury.
(3) Mr. Narendra Chandra Datta.
(4) Khan Bahadur S. Fazal Ellahi.
(5) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(6) Nawabzada Kamruddin Haider.
(7) Khan Bahadur Syed Muhammad Ghaziul Huq.
(8) Alhaj Khan Bahadur Shaikh Muhammad Jan.
(9) Maulana Muhammad Akram Khan.
(10) Mr. H. G. G. MacKay.
(11) Dr. Radha Kumud Mookerji.
(12) Rai Bahadur Satis Chandra Mukherji.
(13) Mr. J. B. Ross.
(14) Rai Sahib Jatindra Mohan Sen.

B. G. Press—1940-41—2507A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber, of the Legislative Buildings, Calcutta, on Monday, the 1st April, 1940, at 2-15 p.m. being the eighteenth day of the First Session, pursuant to section 62 (2) (a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in Chair.

QUESTIONS AND ANSWERS

Improvement of the condition of menial servants in the Bengal Government Press.

78. Mr. K. C. ROY CHOWDHURY: (a) Will the Hon'ble Minister in charge of the Finance Department be pleased to state if it is a fact that the Government of Bengal has appointed a Special Officer to suggest steps that should be taken for the improvement of the condition of menial servants in the employment of the Bengal Government Press?

(b) Is it a fact that a large number of such servants are working in the Bengal Government Press as labourers and forme-carriers for about 10 to 25 years?

(c) Is it a fact that there is no permanency of their service, no provident fund, no fixed tenure of service?

(d) Is it a fact that they are liable to dismissal without any reason being assigned therefor or without asking for any explanation from them?

(e) If answers to the parts from (a) to (d) are in the affirmative, what action has the Government taken for the improvement of their conditions?

(f) Will the Hon'ble Minister be pleased to enlighten the House as to the following:—

(i) how many labourers of the Bengal Government Press were dismissed and suspended by the authorities in 1936, 1938 and 1939;

(ii) for what offence they were suspended or dismissed;

(iii) for how many years did they serve; and

(iv) the dates of their appointment and their names?

MINISTER in charge of the FINANCE DEPARTMENT (the Hon'ble Mr. H. S. Suhrawardy): (*a*) Yes.

(*b*) to (*d*) The Bengal Government Press employ 40 coolies and 24 forme-carriers. Coolies are contingency menials and are liable to discharge at 15 days' notice: they have no fixed tenure of service and are not eligible to subscribe to the provident fund.

Forme-carriers are permanent servants and their service is pensionable. No order of dismissal is valid unless the employee concerned has been given an adequate opportunity of making any representation he may desire to make.

(*e*) The hon'ble member is referred to the reply given to part (*a*).

(*f*) No coolies were dismissed or suspended. A statement giving details regarding five coolies who were discharged in 1936 is laid on the table.

Statement referred to in the reply to clause (f) of question No. 78.

Basad Ali, Bhagabat and Chirkut.—The services of these three men were terminated with effect from the 24th December, 1936, after due notice as they were old men and not capable of doing the work required of them.

Haqdad Khan.—This man absented himself from work from the 11th February, 1936, and as he did not return to duty after being directed to do so and it was found he had left Calcutta his name was removed from the roll. Nothing has been heard of this man since.

Mittoo.—Services terminated with effect from the 8th January, 1936, as he was declared unfit for further service under Government by the Professor of Clinical Medicine on account of his suffering from Pulmonary Tuberculosis.

Basad Ali.—Served for 8 years and 1 month.

Bhagabat.—Served for 13 years and 2 months.

Chirkut.—Served for 15 years and 8 months.

Haqdad Khan.—Served for 1 year only.

Mittoo.—Served for 11 years and 5 months.

Basad Ali.—Appointed on 20th December, 1928.

Bhagabat.—Appointed on 13th October, 1923.

Chirkut.—Appointed on 20th April, 1921.

Haqdad Khan.—Appointed on 2nd December, 1935.

Mittoo.—Appointed on 23rd July, 1924.

Firing by police at Kaliganj.

79. Rai Bahadur SURENDRA NARAYAN SINHA: (*a*) Will the Hon'ble Minister in charge of the Home Department please state what happened at Kaliganj in Jangipur subdivision in the district of Murshidabad for which police opened fire causing death to 3 persons and injuries to others?

(*b*) Did the Hon'ble Minister go there? If so, what is his information? What step is he taking to stop recurrence of such disturbances?

(*c*) Is the situation now quite under control?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) and (*b*) The matter is still under investigation and it is impossible to give any reply at present.

(*c*) Yes.

Ban on public meetings, etc.

80. Mr. RANAJIT PAL CHOWDHURY: Will the Hon'ble Minister in charge of the Home Department be pleased to state if the Government intend to continue the ban on public meetings and processions as contained in their Notification No. 1113P., dated the 21st February, 1940? If so, will he be pleased to state the reasons for its continuance?

The Hon'ble Khwaja Sir NAZIMUDDIN: I would refer the hon'ble member to the reply given by me to question No. 52 asked by Mr. Lalit Chandra Das on the 8th December, 1939.

Mr. RANAJIT PAL CHOWDHURY: Are we to understand by this answer that Government hold the same views as they did last year on the subject?

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes, Sir.

Sj. Kunjabihari Sinha.

81. Mr. K. C. ROY CHOWDHURY: (*a*) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state why Sj. Kunjabihari Sinha, a late process-server of the Alipore Collectorate, 24-Parganas, was made to retire before his completion of sixty years of age, nine months before the time prescribed for pension in

the case of menials, although he was physically fit to work to the last and not an invalid, requiring the Civil Surgeon's invalid certificate according to the law?

(*b*) In defiance of the service rules the order for his retirement although confirmed by the Commissioner of the Presidency Division on his appeal, why has he been still deprived of the pension, although more than one year and a half has already elapsed?

(*c*) Should his case, considering him as a menial servant whose circumstances are not at all good, and therefore who suffers from endless troubles throughout the period, be promptly considered and will he be given his pension shortly afterwards or not, and when will it be given effect to?

(*d*) As he was unlawfully made to retire nine months before his time, will he be paid his full pay for those nine months or not? If not, why not?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) The orders of the Additional Collector, 24-Parganas, requiring Kunjabihari Sinha to retire nine months before he completed his sixtieth year, were passed under a misunderstanding.

(*b*) and (*c*) Orders are now under issue sanctioning full pension with effect from the date on which he was required to retire.

(*d*) He will be paid a lump sum equal to the difference between the amount admissible as pension for the period of 9 months and the amount that he would have drawn as pay during the said period.

Improvement of Salt Industry.

82. Rai Sahib INDU BHUSAN SARKER: (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state what is the amount granted, year by year, by the Central Government for improvement of the salt industry in this Province during the last 5 years?

(*b*) How much of that amount was utilised, year by year, for the said purpose?

(*c*) Will the Hon'ble Minister be pleased to state the names of the existing salt manufacturing companies in Bengal which are carrying on their business?

(*d*) Will he be pleased to state what practical difficulties stood in the way of continuing the subsidies to these salt manufacturing companies?

(*e*) Does the Government propose to grant subsidies to the deserving companies engaged in manufacturing salt? If not, why not?

(*f*) Does the Government propose to start a model Government salt manufacturing factory with a view to encouraging private salt industries? If not, why not?

(*g*) How was the amount granted by the Central Government for promoting the salt industry spent during the last 5 years?

MINISTER in charge of the AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Mr. Tamizuddin Khan): (*a*), (*b*), (*d*) and (*g*) The Government of India placed a sum of Rs. 2,000 at the disposal of the Government of Bengal in 1938-39 and a like amount in the preceding year on account of subsidy to be paid to the Chittagong Trading Union, Limited. No expenditure was incurred as the firm was not able to manufacture salt on a commercial scale in order to avail itself of the subsidy.

(*c*) A statement furnishing the names of the salt manufacturing companies in Bengal who carried on their operation in 1938-39 is placed on the table.

(*e*) I have under my consideration proposals for placing the salt industry in Bengal on a sound basis. As far as it can be ascertained, what the industry immediately requires is technical assistance and for this purpose it is in contemplation to appoint a duly qualified expert whose function will be to assist the existing salt factories to carry on manufacture by the right process and to remove the defects, if any, in their planning and in the selection of sites so as to reduce the cost of production to the minimum and to evolve the most economic process suitable for Bengal.

(*f*) No: a scheme for the establishment of a Government demonstration factory in the Sunderbans has recently been abandoned as impracticable.

Statement referred to in the reply to part (c) of question No. 82.

1. The Premier Salt Manufacturing Company, Limited, Midnapore.

2. The Bengal Salt Company, Limited, Midnapore.

3. The Pioneer Salt Manufacturing Company, Limited, 24-Parganas.

4. The Indian Salt Manufacturers Limited, 24-Parganas.

5. The National Salt Manufacturing Company, Limited, 24-Parganas.

6. The Lokamanya Salt Works Limited, 24-Parganas.

7. The Chittagong Trading Union Limited, Chittagong.

Rai Sahib INDU BHUSAN SARKER: With reference to answer (*f*) wherein it has been stated that a scheme for the establishment of a Government demonstration factory in the Sunderbans has recently been abandoned as impracticable, will the Hon'ble Minister be pleased to state the reasons why it was considered to be impracticable?

The Hon'ble Mr. TAMIZUDDIN KHAN: I cannot give details just now; I want notice.

Rai Sahib INDU BHUSAN SARKER: Does the Hon'ble Minister consider the desirability of establishing a model Government salt manufacturing factory in the near future?

The Hon'ble Mr. TAMIZUDDIN KHAN: I do not think that will be a feasible proposal.

Rai Sahib INDU BHUSAN SARKER: Are we to understand that salt manufacturing factories are not lucrative?

The Hon'ble Mr. TAMIZUDDIN KHAN: At present they are not paying propositions. If these concerns are to be made paying, the cost of production will have to be reduced to the minimum. That is the direction in which Government are trying to come to a solution.

The Jagannath Intermediate College of Dacca.

83. Mr. KAMINI KUMAR DUTTA: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state if the Jagannath Intermediate College, Dacca, is a Government College? If not, what is the status of that college?

(*b*) Is it a fact that an Act, known as the Jagannath College Act, was passed by the Imperial Council about twenty years ago? What was the object of that Act?

(*c*) Will the Hon'ble Minister be pleased to say as to who is responsible for running the Jagannath Intermediate College?

(*d*) Who appoints the Governing Body of the Jagannath Intermediate College? What is the position of the Government with regard to that college?

(*e*) Is it a fact that the Public Works Department of this Government look after the Jagannath Intermediate College buildings?

(*f*) Who is the present Principal of the college?

(*g*) Will the Hon'ble Minister be pleased to state when the present Principal retired from Government service?

(*h*) What was the amount of pension granted to him?

(*i*) What was the maximum salary that he drew before he retired?

(*j*) Is it a fact that the Principal draws one hundred rupees more in pension and salary after his retirement than what he was drawing before retirement?

(*k*) How many extensions, and of what durations, has the present Principal been given after his retirement?

(*l*) When was the last recommendation made by the Governing Body for his extension?

(*m*) Has that recommendation been accepted by Government? If so, on what grounds?

(*n*) Is it a fact that there was a strike of the students of the Jagannath Intermediate College in 1938?

(*o*) What were the causes of the strike? How was the strike ended?

(*p*) Is it a fact that Government published certain rules for the formation of the Students' Union at the college?

(*q*) Will the Honb'ble Minister be pleased to state if those rules were followed in the matter of the formation of the College Union after the strike? If not, why not?

(*r*) Is it a fact that the Government Auditor reported certain serious irregularities regarding the administration of the college a few years back? How did the Government deal with the Auditor's report?

The Hon'ble Mr. PRASANNA DEB RAIKUT (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): Steps have been taken to procure the information which is not yet ready.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to inform us whether the reply can be expected during this session, which is expected to come to a close in a day or two?

The Hon'ble Mr. PRASANNA DEB RAIKUT: It is not possible this session.

Mr. HUMAYUN KABIR: Are we to understand that this is the one standard of reply which the Education Department has got to give to every question?

The Hon'ble Mr. PRASANNA DEB RAIKUT: No.

Licence for carrying motor service on the Haranand Shah Road.

84. Mr. K. C. ROY CHOWDHURY: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state if it is a fact that some person applied to the Hooghly District Board in 1938 for granting him a licence for carrying on a motor service along the Haranand Shah Road from Jagatballavpur (district Hooghly) to the river Damodar (Singhati, district Hooghly)?

(*b*) If so, was he granted the licence? If not, why not?

(*c*) Is he aware that there is a persistent demand from the residents of hundreds of villages on both sides of the river for a motor service along the road?

(*d*) If answer to the part (*c*) is in the affirmative, will the Hon'ble Minister be pleased to state what action, if any, has been taken in this matter? If not, why not?

(*e*) Has the Government any scheme to improve and metal the road? If not, why not?

(*f*) Considering its importance and vastness of the area it serves, does the Government propose to make some grant out of the Road Development Fund for the improvement of the road? If not, why not?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) Yes.

(*b*) No. The bridges and culverts on this road were in a damaged condition.

(*c*) No.

(*d*) Does not arise.

(*e*) and (*f*) No, the construction of such a road is clearly a local responsibility.

Narail-Jessore motor service.

85. Mr. K. C. ROY CHOWDHURY: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state if there is a motor service along the road from Narail to Jessore?

(*b*) If he is aware that there is standing complaint that members of the police staff do not pay any fare for their journey by motor to the owners of the motor service?

(*c*) Is it a fact that the police do not take any step for the comforts of the passengers?

(*d*) Is it a fact that the motor buses are often overloaded and sometimes passengers even faint due to overcrowding?

(*e*) Is the condition of the road good enough for bus traffic?

(*f*) If the answers to the above paragraphs be in the affirmative, what action has been taken by the Government in the matter?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) Yes.

(*b*) No such complaint has been received.

(*c*) The police have no responsibility in this matter.

(*d*) No.

(*e*) Yes.

(*f*) Does not arise.

The Harananda Shah Road.

86. Mr. K. C. ROY CHOWDHURY: (*a*) Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state if it is a fact that there is a road known as the Harananda Shah Road, about 8 miles long, running from Jagatballavpur (Howrah-Amta Light Railway, district Howrah), to the river Damodar at Singhati, in the district of Hooghly?

(*b*) Is it a fact that this road is a very important portion of the shortest direct route connecting Calcutta with a vast area comprising a large number of villages on both sides of the river Damodar in Jangipara police-station, Khanakul police-station and Pursura police-station in Hooghly district and Amta police-station in Howrah district?

(*c*) Is it a fact that about 7 miles of road are maintained by the Hooghly District Board?

(*d*) Is it a fact that this road is indispensable for the communications between Calcutta and those villages lying in the interior parts of the districts of both Hooghly and Howrah?

(*e*) Is it a fact that every year thousands of carts from and to Calcutta carrying imports and exports of those villages pass through this road?

(*f*) Is it a fact that for want of proper maintenance by the authorities many culverts and bridges on the road have been completely destroyed and many portions have become lower than the level of the fields on both sides of the road?

(*g*) Is it a fact that for a period of about 7 months of the year many portions of the road remain submerged under knee-deep water and traffic and communications along this road are totally stopped?

(*h*) Is it a fact that the above-mentioned villages suffer great inconvenience during this period on account of the stoppage of the traffic and communications along the road?

(*i*) If answer to the parts (*a*) to (*h*) are in the affirmative, will the Hon'ble Minister be pleased to state what action, if any, has been taken in this matter? If not, why not?

MINISTER in charge of the PUBLIC HEALTH AND LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): (*a*) There is a fair-weather road known as Harananda Shah's Road about 7 miles 2 furlongs long commencing from Sitapur *hāt* in continuation of the Howrah-Jagatballavpur Road in the Howrah district and terminating at the Damodar Embankment in village Singty in the Hooghly district.

(*b*) It is reported that the road in question forms a part of the shortest direct route connecting Calcutta with only a few villages on either side of the river Damodar in the Jangipara and Amta police-stations in the Howrah district and that the greater part of the road passes through vast fields.

(*c*) Yes.

(*d*) and (*e*) No, as there is another district board road, viz., the Autpur-Sitapur Road, which passes through important villages and railway stations and, as such, is a more popular route and is used by most of the carts carrying exports and imports to and from Calcutta.

(*f*) A number of culverts between mile 1 and mile 5 are reported to be in a damaged condition for want of repairs owing to the paucity of funds. The road is, however, not lower than the level of the fields except at a few places where new culverts are necessary.

(*g*) As this is only a fair-weather road, through traffic along the road is suspended for about 5 months in the year owing to the accumulation of water near the damaged culverts and at the breaches caused by heavy rains.

(*h*) No, as the road in question is not the only means of communication in the locality and there are other district board and village roads and also the Howrah-Champadanga Light Railway.

(*i*) It is reported that the district board contemplates repairing the damaged culverts gradually, according as funds are available.

Appointment of Professors of the Medical College.

87. Mr. RANAJIT PAL CHOWDHURY: (*a*) Will the Hon'ble Minister in charge of the Public Health and Local Self-Government be pleased to state the number of posts of Professors in the Medical College and how many of them are held by Indians belonging to the Indian Medical Service, how many by Europeans belonging to the Indian Medical Service and how many by those who are not in the Indian Medical Service?

(*b*) Is it a fact that the posts of the Professors of Medicine, Professor of Ophthalmic Surgery, Professor of Surgery and Professor of Midwifery are being always reserved for the Europeans in the Indian Medical Service? If so, why?

(*c*) Will the Hon'ble Minister be pleased to state whether the Government of Bengal selects men for those posts from amongst the whole cadre of Indian Medical Service? If so, is there any rule or law by which the Government of Bengal is under the obligation to reserve these posts for Europeans in the Indian Medical Service? If not, will the Hon'ble Minister be pleased to state the reasons why Indians in the Indian Medical Service or persons in the Indian Medical Service have not so far been selected by the Government for holding these posts?

(*d*) Will the Hon'ble Minister be pleased to state the reasons that prompted the Government of Bengal to select the present incumbents to the posts of Professor of Medicine, Professor of Ophthalmic Surgery and Professor of Midwifery? What are the past experiences and special qualifications for which those officers were recruited for the said posts?

(*e*) Will the Hon'ble Minister be pleased to state the reasons that promoted the Government of Bengal to appoint the present incumbent of the post of the Professor of Surgery and Surgeon to the Medical College Hospital? Has the present incumbent of the post any special qualification for which he was brought to fill up the post? If so, will the Hon'ble Minister be pleased to state the reasons and qualifications? If not, why not?

(*f*) Will the Hon'ble Minister be pleased to state whether the posts afore-mentioned are tenure appointments? If so, what is the term of tenure in each of those cases? If they are not tenure appointments, does the Government propose to make them so? If not, why not?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: (*a*) The total number of posts of Professors in the Medical College, Calcutta, is 17, inclusive of three part-time posts, viz., Professorships of

Pharmacology, Hygiene and Dentistry. None of these posts are held by Indian members of the Indian Medical Service excepting the part-time post of Professorship of Hygiene which is held *ex-officio* by Lieutenant-Colonel A. C. Chatterji, I.M.S., Director of Public Health, Bengal. Four of these posts are filled by European Indian Medical Service officers and the rest are held by others who are not in the Indian Medical Service.

(*b*) and (*c*) Under the Indian Medical Service (Civil) Reserved Posts Rules promulgated by the Secretary of State for India under sections 246 (*1*) and 250 (*1*) of the Government of India Act, 1935, read with the directions issued by the Governor-General under section 54 of the same Act, four senior specialist posts, one in each of the subjects of Medicine, Surgery, Midwifery and Ophthalmic Surgery at the Medical College or in any other approved hospital in Calcutta, are required to be filled up by European members of the Indian Medical Service. At present the posts of the Professor of Clinical Medicine, Surgery, Ophthalmic Surgery and Midwifery are accordingly reserved for and held by European Indian Medical Service officers. Selection to these posts is made from amongst the European officers of the Indian Medical Service in the province, if a suitable officer in the required speciality is available; if not, the services of a specialist in the particular subject are obtained from the Director-General, Indian Medical Service.

(*d*) The present incumbents of the posts were selected on account of high and special qualifications and wide clinical and teaching experience in their subjects. As regards their specialist qualifications, I would refer the honourable member to the Bengal Civil List and the History of Services of Gazetted Officers, both of which are in the library.

(*e*) The present incumbent of the post of the Professor of Surgery is a highly qualified specialist in Surgery, possessing the M.B.B.S. (Lond.), and the F.R.C.S. (Eng.). He was Principal and Professor of Operative Surgery, Medical College, Vizagapatam, and Surgeon to the General Hospital and Professor of Operative Surgery, Medical College, Madras, for about 9 years. His services were obtained as a special case from the Madras Government through the Government of India.

(*f*) The posts are tenure appointments. The tenure is for five years in the first instance, subject to extensions for similar periods on approved service.

Mr. RANAJIT PAL CHOWDHURY: With reference to answer (*e*), will the Hon'ble Minister be pleased to state what was the reason for transferring the present Professor of Surgery from Madras to Calcutta?

The Hon'ble Mr. TAMIZUDDIN KHAN: The answer is given there, Sir, viz., that he was a highly qualified doctor and that such a highly qualified person could not be had here.

Point of Information.

Mr. H. C. A. HUNTER: May I rise on a point of information, Sir? Is it not an abuse of the privileges of this House that a question should have been put by an honourable member, I mean, Mr. Ranajit Pal Chowdhury, in such a form as may conform to the letter of Council Rule No. 27, while one of the objects of the question is to make an implication against an eminent and senior member of a distinguished service? In the Order Paper of the 24th March, 1939, appeared a series of questions in the name of the same honourable member purporting to ask for information as regards a particular officer, but cast in a form from which invidious implications could be inferred. This question, I believe, was disallowed; and now the honourable member has again come along and has amongst a number of other questions, put a question in a form so modified that you have no power under the rules to disallow it, but also in such a form that it is evident an implication as to the unfitness of the officer for the post occupied exists in the mind of the questioner.

The point that I want to submit, Sir, is that it is derogatory to the dignity of this House, firstly, that questions should be put which, I submit, appear to be prompted by malice and personal animosity, and, secondly, that the Chair should be out-manœuvred into having to allow under the rules questions so prompted.

Mr. HUMAYUN KABIR: On a point of order, Sir. Is a statement of this type allowed in the midst of these questions? I ask for information from you, Sir.

Mr. PRESIDENT: The Chair always deprecates questions on personalities unless, of course, it is of very great importance and the Chair is always willing to consider any representation from the departments if they feel that the purpose of the question is really an abuse of the rules. But in this case, I could not see if it was aimed at disparaging an individual officer of the Government. Anyway, as there was no representation from the department concerned, I did not judge the matter from this angle of vision. Now, as regards the present question raised by Mr. Hunter, any honourable member on a point of order may enquire of the Chair and have the Chair's ruling on the particular point.

Mr. RANAJIT PAL CHOWDHURY: Was a record of the services of the present Medical Surgeon taken during his tenure of office in Madras?

Mr. PRESIDENT: Order, order. What is the purpose of your putting the supplementary question?

Mr. RANAJIT PAL CHOWDHURY: My object in so doing is, Sir, to find out whether he was so eminent as to call for a transfer from Madras to Calcutta to meet Bengal's requirements.

The Hon'ble Mr. TAMIZUDDIN KHAN: The post was advertised and this officer was one of the applicants. All the applications were considered by a special committee and he was found to be the best of all the candidates to fill the post and accordingly appointed. So, I can't find any reason, Sir, to call for the service record of this officer.

Mr. LALIT CHANDRA DAS: Arising out of answer (*d*), Sir, will the Hon'ble Minister be pleased to state what are the names of the officers who had been selected.

The Hon'ble Mr. TAMIZUDDIN KHAN: I want notice, Sir.

Mr. HUMAYUN KABIR: On a point of information, Sir. Will the Hon'ble Minister be pleased to state whether this appointment was made by advertisement as he stated just now, or it was by way of deputation as suggested in answer (*e*)? The Hon'ble Minister just now stated that it was as a result of advertisement. Was it, Sir, as a result of advertisement that this officer was appointed or by arrangement with other Provincial Governments or as a result of promotion from among officers of this particular Provincial Government?

The Hon'ble Mr. TAMIZUDDIN KHAN: I am sorry, Sir. It was now stated that it was as a result of advertisement. Was it, Sir, as advertised was in fact supplied by the Hon'ble Sir Bijoy, who was the Minister in charge at that time? I have now ascertained, Sir, that the post was not advertised. Only enquiries were made from all the provinces.

Mr. RANAJIT PAL CHOWDHURY: Is there a record kept of the work that he is doing at present with special reference to the nature and number of operations that he is doing at present?

The Hon'ble Mr. TAMIZUDDIN KHAN: No, Sir, that is not possible.

Mr. RANAJIT PAL CHOWDHURY: Is the Hon'ble Minister aware that the present Medical Surgeon is not very popular with the patients of the Medical College?

Mr. PRESIDENT: Order, order. It is beyond the scope of a supplementary question to ask whether a particular officer is popular or not.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, an insinuation has been made by the honourable member that he is not popular. I repudiate it and perhaps you will permit me, Sir, on behalf of Government, to reply to the effect that he is very popular and is considered to be a very eminent surgeon.

Mr. PRESIDENT: In that case, I would like the Hon'ble Minister in charge of the Department to have his say on this.

Mr. AMULYADONE ROY: The Hon'ble Mr. Suhrawardy is in charge of all the Departments. (Laughter.)

Mr. PRESIDENT: Order, order. Next question.

(Seeing that no Hon'ble Minister came forward to reply on behalf of the Hon'ble the Chief Minister, who was to reply.)

Mr. PRESIDENT: As I have said on previous occasions, some arrangement should be made for somebody to be present, who will act for the absentee Minister. In future, there should be some arrangement, particularly in the case of the Premier who is often found absent from the House. Now, as regards this question, it will be taken up on Monday and if the Chief Minister cannot be present on that day, he must inform the Chair beforehand of this and of the arrangement made for reply to the supplementary questions during his absence.

Rai Sahib INDU BHUSAN SARKER: Then, may I take it, Sir, that this question will be answered the next day when the Hon'ble Premier will be present so that the supplementary questions might be put on that day?

Mr. PRESIDENT: Yes.

Rai KESHAB CHANDRA BANERJEE Bahadur: On a point of information, Sir. To-day may perhaps be the last day of this session of the Council and I want to say something about pending questions. Sir, I gave notice of a number of quesions relating to the Bengal Sanskrit Association and a similar number of questions was given notice of by my friend Rai Brojendra Mohan Maitra Bahadur. His questions were answered, I think, three or four days ago but my questions, Sir, given notice of long before them, yet remain unanswered. May I enquire, Sir, when these will be replied to by the Hon'ble Minister in charge of the Department concerned?

Mr. PRESIDENT: The office has prepared a list of questions that remain unanswered still. There are about 9 questions relating to the Education Department. Two of those questions which are by Mr. Nur Ahmed are pending for 1 month and 22 days; one of Mr. Lalit Chandra Das is pending for a month and 18 days; another again of Mr. Nur Ahmed is pending for a month and 12 days; two of Mr. S. C. Chakraverty are pending for a month and 6 days; one of Rai Keshab Chandra Banerjee Bahadur is pending for 27 days; one of Rai Brojendra Mohan Maitra Bahadur is pending for 24 days and the last one which is of Mr. Kamini Kumar Dutta is pending for 18 days.

The one question relating to the Forest and Excise Department which is pending for a month and 24 days is of Khan Bahadur Ataur Rahman.

One question, again, relating to the Co-operative Credit and Rural Indebtedness Department, which is pending for a month and 15 days, is of Mr. Kamini Kumar Dutta.

Two questions relating to the Judicial Department were put by Mr. H. P. Poddar and Raja Bhupendra Narayan Sinha Bahadur, of Nashipur, and are pending for a month and 5 days, and 26 days, respectively.

Two questions relating to the Commerce and Labour Department were given notice of by Mr. S. C. Chakraverty and Mr. K. C. Roy Chowdhury and are pending for a month and 6 days, and 23rd days, respectively.

Two questions relating to the Home Department were given notice of by Mr. Kamini Kumar Dutta and Mr. Naresh Nath Mookerjee and are pending for a month and 15 days and 21 days respectively.

One question relating to the Revenue Department was of Mr. K. C. Roy Chowdhury and is pending for 21 days.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, I have given notice of an adjournment motion—

Action taken by Government regarding non-official resolution passed during the February Session, 1939.

Mr. PRESIDENT: Order, order. The Hon'ble Sir Bijoy Prasad Singh Roy.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: With your permission, Sir, I should like to read out the statement regarding the action taken by Government on the resolution regarding giving employment and gratuity to the discharged staff of the Settlement Department, that was passed by this House on the 9th February, 1939. It runs as follows:—

In accordance with the provisions of sub-rule (2) of rule 95 of the Bengal Legislative Council Procedure Rules, I have the honour to place for the information of the Council the following statement regarding action taken on the resolution regarding giving employment and gratuity to the discharged staff of the Settlement Department on account of stoppage of the District Settlement Operations, that was passed by the House on the 9th February, 1939.

A committee was appointed to enquire into and recommend what gratuity, if any, should be given to the clerks, draftsmen, process-servers and orderlies of the Settlement Department who have been or may shortly be discharged on account of stoppage of the District Settlement Operations. The committee held two meetings so far. In the last meeting it was decided to await the final decision on the settlement budget for 1940-41 in which Government had made provision for revisional district settlement operations. If the demand for grants is sanctioned by the legislature, the discharged personnel will have a chance of being absorbed.

The Committee adjourned *sine die.*

Application from a member praying for condonation of absence.

Mr. PRESIDENT: The Chair has received the following application from Mr. Humayun Reza Chowdhury, M.L.C.:—

"Sir,

Most respectfully I beg to state that owing to serious heart troubles, I had been advised by my attending physician not to move from the bed and, consequently, I could not attend the meetings of the Chamber from the 27th November, 1939, during the last session of the Council; and as I am still suffering very badly, I have not also been able to

attend any meeting of the Council during the current session up till now. I, therefore, solicit the favour of your kindly moving the matter in the Chamber as required under section 68(4) of the Government of India Act, 1935, to grant me leave of absence for the period referred to above.

Yours faithfully,

HUMAYUN REZA CHOWDHURY, M.L.C."

CALCUTTA:

The 30th March, 1940.

Mr. PRESIDENT: The question before the House is: that leave be granted to Mr. Humayun Reza Chowdhury condoning his absence for more than sixty days on account of serious illness.

(The motion was agreed to.)

Adjournment Motion.

Mr. PRESIDENT: I have received notice of an adjournment motion from Rai Keshab Chandra Banerjee Bahadur which runs thus:—

That the House do now adjourn its business to discuss a definite matter of urgent public importance and of recent occurrence, namely, failure of Government to take proper and immediate steps to meet the situation created by the scavengers' strike and to prevent the outbreak of infectious diseases in the city and its outskirts which is imminent owing to the filthy condition of the town.

Now, the Chair is to see if the motion is in order. Every strike cannot necessarily be a matter for an adjournment motion; but here there is special mention of the apprehension of an outbreak of infectious diseases. May I enquire of the Government if they have taken any steps under sections 15, 16, 17 and 18 of the Calcutta Municipal Act? Section 17 provides that the Provincial Government may deem it necessary to make inspection and to report; and section 18 provides the procedure to be followed by the Provincial Government where the Corporation fail to take action. So, they have the right to interfere in case of emergency. Have any steps been taken under either of the sections by the Government?

The Hon'ble Mr. H. S. SUHRAWARDY: Well, frankly speaking, it is a matter for consideration whether Government, in the case of a strike in the Calcutta Corporation which is an autonomous body, have the power to interfere so far as the strike itself is concerned.

Mr. PRESIDENT: The Chair will never accept the proposition that every strike in the province of Bengal should be an occasion for an adjournment motion, but here it is particularly stated that there is a great apprehension of the outbreak of epidemic and infectious diseases.

The Hon'ble Mr. H. S. SUHRAWARDY: It is not a question of merely interfering by Government in any strike that may take place in Bengal, but interfering in a strike, the settlement of which or the consideration of which is within the competence of an autonomous body like the Calcutta Corporation. On a previous occasion, Government had attempted to intervene and on one occasion——

Mr. PRESIDENT: That is not the point. The motion reads thus: "failure of Government to take proper and immediate steps to meet the situation" as contemplated, I think, under sections 17 and 18 of the Calcutta Municipal Act. Has anything been done by the Government?

The Hon'ble Mr. H. S. SUHRAWARDY: This much has been done, Sir, that we have been in communication with the Chief Executive Officer. We have been discussing matters with him daily, and trying to get into touch with the scavengers themselves and attempting to find out to what extent they are prepared to call off the strike or go back to work. The Chief Executive Officer has his own views on the subject. He is attempting to meet the scavengers as far as possible and meanwhile taking steps to clean the city. The steps which have recently been taken have yielded good results. So far as Government are concerned, they are helping the Chief Executive Officer by offering police protection to persons employed to clear the streets, as far as possible. Nobody can suggest for a moment that the city is clearer than what it was before the strike took place or that the refuses are not lying about or that the steps taken are adequate.

Rai KESHAB CHANDRA BANERJEE Bahadur: But nothing has been done.

The Hon'ble Mr. H. S. SUHRAWARDY: If the honourable members show so much ignorance as to say that nothing has been done, there is very little for this Government to state in this matter. Steps are being taken and the city has been divided into various zones for the purpose of clearing, and one zone after another is being adequately dealt with. The latest report from the Chief Executive Officer is to the effect that there will be very marked improvement within the next 24 hours. That is the latest report that we have received with regard to the health portion of the situation.

As regards the strike portion, I do not know whether we are called upon to make any statement.

The Hon'ble Khwaja Sir NAZIMUDDIN: I submit, Sir, that under the sections referred to by you, even if Government can interfere at all, it will be ineffective to deal with the situation. We have to enquire into the matter. But what enquiry can be made?

Mr. PRESIDENT: Under section 18, Government can depute a particular officer and have the work done and charge the Calcutta Corporation to reimburse from their fund.

The Hon'ble Khwaja Sir NAZIMUDDIN: I quite agree with you, Sir, but supposing the Government appoint a health officer to see that the work is done, I ask, will it be possible for Government to appoint 500 scavengers to clean the streets of Calcutta?

The Hon'ble Mr. H. S. SUHRAWARDY: The question is this: are the officers of the Calcutta Corporation doing their duty or not? It is not a question whether the scavengers' strike is on, but whether under the circumstances the officers of the Calcutta Corporation are doing their best with the elements at their disposal to meet the situation. Apart from the question of the strike and apart from any steps that may be taken to settle the strike or to meet the demands of the strikers, if my friend can show any dereliction of duty on their part so far as the cleansing of the city is concerned and are able to show that there is such dereliction of duty that Government should have stepped in under any of these sections, then that would have been a case worth making out. But there is no case of that type except the grievance that we have not taken proper and immediate steps to meet the situation. Again I say, the question is not whether the strike is continuing, not whether the rubbish heap is mounting up; but the question is: whether the officers of the Calcutta Corporation have acted in such a manner as to bring them within the scope of sections 17 and 18. I wish to point out that some time ago there was a strike in the Corporation and Government did appoint an officer for the purpose and asked the Corporation under section 16 to furnish a report. The Calcutta Corporation, which is a Corporation made up of the members of the opposite persuasion, immediately told the Government to keep their hands off and refused to submit a report and appointed a committee of its own. That was the position taken up by the Corporation—an autonomous body which has been created by the Statute—and we are most anxious that that autonomous body should function independently as far as possible and with as little interference as possible from Government. In a matter like this, without any definite charge being established that the Corporation is not functioning properly, we should not go and appoint an

officer whenever there is a strike or in a matter where the public health has not deteriorated to such an extent as to call for Government action. While the Chief Executive Officer has stated that within the next 24 hours matters will improve, according to some honourable members there is a chance of deterioration. As the Chief Executive Officer reports that there is a marked improvement and there is no chance of further deterioration, Government can hardly step in and appoint an officer to get a report from the Corporation.

Mr. HUMAYUN KABIR: Sir, I quite agree with the Hon'ble Minister that the motion for adjournment has nothing to do with the continuance of the strike. Government is not expected to interfere in the matter of the strike as such, but the question is whether the Government have taken steps to see that the Corporation functioned properly when a state of affairs has been created in the city that its health is in danger. The Hon'ble Minister maintains that the pertinent question here is: whether the officers of the Calcutta Corporation have been failing in their duty or not. To this point, not as an outsider but as a member of the Legislature, I must say that the officers of the Corporation have definitely failed in their duties. This strike is going on for the last seven days. This is a matter in which delay is dangerous. There may be matters concerning other departments in regard to which a strike may be allowed to continue and the Calcutta Corporation may take its own time in order to break the strike. But in the matter of public health, I do not think it lies with the Chief Executive Officer or the Health Officer or anybody else to say that he is taking steps which will, he hopes, clear the situation. This is the 7th day of the strike and the Hon'ble Minister himself admits that there are refuses on almost every important street of the town. As yet no definite steps seem to have been taken. It is not proper to say that is a question into which we shall not go into at great details. It is not proper to say that that the Chief Executive Officer did not have sufficient facts, nor does it behove the Hon'ble Mr. Suhrawardy to argue that the scavengers have put themselves in the wrong by going on strike at a time when one Corporation is going to be dissolved and another Corporation is coming into existence. We have seen, Sir, that during this short period of interregnum many important things have been done by the retiring Corporation. The term of the Chief Executive Officer has been——

Mr. PRESIDENT: Order, order. That is not relevant.

Mr. HUMAYUN KABIR: I was suggesting that as these activities could have been carried on by the Corporation or its officers, there is no reason why the Corporation and its officers should not carry on this most important duty of maintaining——

Mr. PRESIDENT: The Hon'ble Minister made it clear that the Legislature with eyes open gave autonomous power to the Corporation with the result that it is only in case of an emergency that the Government can step in.

Mr. HUMAYUN KABIR: Our submission is that this is a case of emergency and Government have not interfered as they ought to have interfered under sections 17 and 18.

The Hon'ble Mr. H. S. SUHRAWARDY: Point out the period of time.

Mr. HUMAYUN KABIR: Sir, this sort of interruption tends to hamper discussion. If both of us go on talking, he will not hear me and I shall not hear him. I want to place one point for the consideration of the Hon'ble Minister, viz., that there is a state of emergency and that it is a type of emergency in which we cannot wait. Government have power under the Act to take steps to see that the emergency is removed, but they have not done so. Therefore, this matter should be discussed on the floor of the House.

Mr. PRESIDENT: Order, order. The Hon'ble Home Minister has made it clear that he has got an assurance from the Chief Executive Officer that within 24 hours matters will improve. Since the Government have not yet taken any steps under sections 15, 16, 17 and 18, it is for the honourable mover of the resolution to decide whether he wants to press his resolution.

Rai KESHAB CHANDRA BANERJEE Bahadur: Yes, Sir.

The Hon'ble Khwaja Sir NAZIMUDDIN: I think under sections 16, 17 and 18, there is no power given to Government to do anything but to hold an enquiry. In this particular case, an enquiry will produce no result. I, therefore, submit that this motion cannot be moved because the powers that are there are not enough for an enquiry and an enquiry would be absolutely futile. No executive power is given to Government under this section; only an inquiry is provided for.

Mr. HUMAYUN KABIR: Not even under section 18?

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, if this is not an emergency, then I cannot understand what will constitute an emergency.

Mr. PRESIDENT: I have appreciated your point of view, Rai Bahadur, but in view of the assurance given, are you agreeable not to press your motion?

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, I want formally to place the facts and figures before the Council.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, what I was trying to suggest was just to give an opportunity to Mr. Humayun Kabir, when he was explaining the point, to state before the House as to when, in his opinion, he thinks that Government should have intervened. It is no use saying that the strike has been going on for the last seven days and that Government have not done anything all these days. It is difficult for us here, in the absence of the Chief Executive Officer and other officers of the Calcutta Corporation, to justify or not to justify our attitude at this stage. Sir, how could Government be made responsible for the conduct of the Corporation officers? Practically, it comes to this, viz., making the Government responsible for their conduct. Many of the members have said that the Chief Executive Officer has not acted in a manner in which he should have acted under the circumstances. I ask them to consider whether in spite of these sections Government can take responsibility for the manner in which the officers of the Calcutta Corporation have acted or should have acted.

Now, Sir, the next point is this. The question has been raised that Government should have interfered. I should say, Sir, it is only after Government are satisfied or the House is satisfied that the officers of the Calcutta Corporation have failed to act properly, or that the course which they are pursuing will lead to no result, or that the statements made by them that within a particular time, say, within the next 24 hours, things will improve were no good, that Government can step in and act in the matter. But that time, Sir, has not yet arrived. As matters stand at the present moment, can the other side contend that Government should have stepped in? Can they say that Government should have stepped in within four days or two days or within one day of the strike? On the other hand, Sir, I am prepared to state this that, if things deteriorate, if the Chief Executive Officer cannot carry out his undertaking, if we find that he is unable to deal with the situation, then Government will step in not only under these sections but also under the Trade Disputes Act, the application of which I am considering at the present moment. Such being the case, Sir, it would be absolutely incorrect on the part of any honourable member to say that we are not alive to the situation. As a matter of fact, Sir, I have been in touch with the Chief Executive Officer of the Calcutta Corporation directly, through my department, through my officers, and through the Commissioner of Police every day—not merely once or twice but

three times a day. Government is doing everything possible. I am most reluctant to do it—and I wonder if my friends opposite desire me to step in and interfere with the affairs of the Calcutta Corporation before it is clear that things have deteriorated to such an extent. If they want me to do that, I am prepared to suspend the Calcutta Corporation at the earliest opportunity. We feel that out of deference to public opinion, out of deference to the Statute which the Legislature itself has created and out of deference to policy and principle, we should allow the autonomous bodies to function without interference, as much as possible. We shall not step in until we find that the Calcutta Corporation is unable to deal with the situation. When that time arrives, Sir, I am fully alive to the situation—I shall step in, whatever may be the effect of so doing.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, this is an emergent situation and it is time that Government intervened.

Mr. PRESIDENT: The Chair is alive to the rule that an adjournment motion can be moved only when the matter is primarily the concern of the Provincial Government. The Chair further realizes that the ultimate responsibility is with the Government for the preservation of the health of the citizens. A motion for adjournment may be allowed if there is provision under the Act for Government to intervene and where Government fails to do so. Whether an emergency has arisen or not, that will be for the House to decide on the merits of the case. I for myself consider it a definite matter of urgent public importance and hold that the motion is in order. Do Government object to this motion being discussed?

The Hon'ble Mr. H. S. SUHRAWARDY: I have no objection to the matter being discussed. I would rather like a clarification of the situation for the benefit of the members concerned.

Mr. PRESIDENT: I fix 4 p.m. to-day for the discussion of the Adjournment Motion.

The Bengal Tenancy (Third Amendment) Bill, 1939.

Mr. PRESIDENT: The House will now resume further discussion of the Bengal Tenancy (Third Amendment) Bill, 1939. Khan Bahadur Mr. Shamsuzzoha.

Mr. E. C. Ormond: On a point of order, Sir. If my recollection is correct, I think I was in the middle or rather towards the end of my

speech, when the discussion centred round a point of order. With your permission, Sir, and if my recollection is correct, I should like to say two sentences more.

Mr. PRESIDENT: I find that you had concluded your speech that day. Khan Bahadur M. Shamsuzzoha was in possession of the House them.

Khan Bahadur M. SHAMSUZZOHA: Sir, I was submitting——.

Mr. PRESIDENT: As regards the question of previous sanction, I might inform the House that the previous sanction of His Excellency the Governor has since been obtained. So, that question does not arise now.

Rai MANMATHA NATH BOSE Bahadur: May I rise on a point of order, Sir, in this connection? My submission is that this amendment goes far beyond the scope of the Bill. My further submission is that neither in the Bill nor in the Act there is any provision for extending the operation after the year 1937, but you will find, Sir, that in the penultimate line of the amendment it is proposed "..... entered into before or after." I submit, Sir, that these words "or after" go beyond the scope of the Bill, and as such the matter cannot be discussed.

Mr. PRESIDENT: Sir Bijoy, the point is that in an amendment you cannot widen the scope of the Bill.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: My submission, Sir, is that the Khan Bahadur is not widening the scope of the Bill. In fact, the amendment is quite justified. Now, let us see what his amendment really is? Government proposes that *kat-kabalas* should be included and that *kat-kabalas* subsisting in or after 1937 and entered into before 1928 should be treated as a complete unsufructuary mortgage or should be treated as illegal if the term of such a mortgage or *kat-kabala* exceeds 15 years. The Khan Bahadur suggests that those mortgages or *kat-kabalas* which were executed after August, 1937, should also be illegal. I think, Sir, that that is the intention of Government. There was a hiatus and the Khan Bahadur's amendment simply seeks to remove, or rather bridge, that hiatus. It is not, Sir, really extending the scope of the Bill.

Mr. E. C. ORMOND: On a slight point of order, Sir.

Mr. PRESIDENT: Order, order. Sir Bijoy is in possession of the House. As soon as he finishes, you may raise your point.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, that is the submission that I wanted to make. The Khan Bahadur's amendment does not widen the scope of the Bill. The scope of the Bill is to place *kat-kabalas* in the same category as usufructuary mortgages. In the Government Bill we have provided that *kat-kabalas* entered into before August, 1928, would be illegal. Now, the Khan Bahadur's suggestion is that they would be illegal also after 1937. That is the real intention of the Bill, and the amendment only makes it clear.

I will draw your attention to sub-clause (*1*) of clause 3 of the Bill. I will read out the change that is suggested there. The change relates to section 26G of the original Act. I will read out to the House for ready reference section (*1a*) of the Act. It runs as follows:—

"Notwithstanding anything contained in this Act or in any other law or in any contract, every usufructuary mortgage subsisting on or after the first day of August, 1937, which was so entered into before the commencement of the Bengal Tenancy (Amendment) Act, 1928, shall be deemed to have taken effect as a complete usufructuary mortgage for the period mentioned in the instrument or for fifteen years, whichever is less."

The amendment suggested in the Government Bill is that in sub-section (*1a*), for the words "every usufructuary mortgage", the words and brackets "every mortgage (including a mortgage by conditional sale) entered into by an occupancy-*raiyat* in respect of his holding or of a portion or share thereof, in which possession of land is delivered to the mortgagee" shall be substituted.

That is the change which has been suggested. The amendment aims at adding the words "or after."

Mr. PRESIDENT: The scope of an amending Bill is much more restricted than other Bills. It is to be construed from the title, the preamble and the sections of the Bill. In the preamble it has been stated: ".....for the purposes and in the manner hereinafter appearing;". Now, this amendment is going to interfere with the rights in land, and it must be interpreted very strictly. So, you must show that there was anything in the Bill as introduced whereby right created in the Bill was meant to have application beyond the year 1937; otherwise, the Chair will be constrained to hold this amendment to be out of order.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That was the intention, Sir, as will be found from what appeared in the Statement

of Objects and Reasons and in the changes that we have suggested. We wanted to place all sorts of usufructuary mortgages, including conditional sale, in the same category. Usufructuary mortgages entered before 1928——.

Mr. PRESIDENT: That is correct.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Before 1928, it should be limited to 15 years. Of course, there would be no complete usufructuary mortgages after.

Mr. PRESIDENT: The point at issue is whether the provisions in the Bill may be construed as leading to forfeiture or modification of rights in land during the period beyond the year 1937. If that is the intention of this amendment, then it must be achieved by way of an amending Bill and not through an amendment of a clause of this Bill, as it would amount to widening the scope of the Bill which is not permissible under the rules.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It was never the intention of Government to allow *kat-kabalas* to be entered into for 15 years after the passing of this Act. In that case, the whole object of this Bill would be frustrated.

Mr. PRESIDENT: The Chair has no right to go beyond the title, the preamble and the wordings of the clauses of the Bill. I am to see that the scope of the Bill is not widened in any way beyond what Government proposed in the original Bill. A reference to the title, preamble and the clauses should indicate the scope of the Bill.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: In my opinion the object of the Bill is to widen the provisions of section 26(*g*)(*1*)(*a*). That is the real scope. How it is to be widened and in what particular way are matters for consideration by the House. So, it opens the whole section. For example, you want to amend section 376 of the Indian Penal Code. The age of consent for sexual intercourse with a girl of less than 12 years is rape, according to the Indian Penal Code. Now, if the amending Act is to increase the age to 16, then it opens the whole section.

Mr. PRESIDENT: It does not. If you put the question, I shall have to answer it. The most important point for consideration is, even if the purpose of a Bill is to widen the scope of any particular provision in any Act, it should still be restricted to the manner and extent contemplated in the clauses of the Bill as originally introduced.

By amendment the scope of a Bill can be restricted but it cannot be widened. This is an amending Bill. The intention of the Government is to extend the rights of tenants in certain ways. But it must be limited within the scope of the Bill. If in giving larger powers, the amendments go beyond the scope of the Bill, it is not permissible. But it is open to the Government to bring in a fresh amending Bill. Reference has just been made by the honourable member to the Age of Consent Bill. There, the intention was to fix an age of consent. The age was to be settled by the Bill. So, that analogy does not hold good here.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: There also, it is permissible to argue that the scope of the Bill was to restrict the age of consent to 16 and not 15.

Mr. PRESIDENT: I have heard you.

Mr. E. C. ORMOND: I crave the indulgence of this House to make a few observations on this point. It will be noticed in the first place that the only provision in the original Act (Bengal Tenancy Act, VIII of 1885) which has any retrospective effect in this matter at all is section 26(*g*)(*1*)(*a*). That is the only place in which there is any retrospective effect at all. Therefore, any enlargement of that retrospective effect on the lines of the present amending Bill has to be passed as an amendment of section 1(*a*).

Now, there is in the Bill, as it has come from the Select Committee, a clause relating to the amendment of sub-section (*1a*) that is 3(*1*) of the Bill. There is a certain clause which relates to the amendment of clause (*1a*). That only gives retrospective effect to mortgages not in relation to any debt of 1927 as it was inadvertently stated by the Hon'ble Minister, but to mortgages entered into before 1928.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That was only a slip of the tongue.

Mr. E. C. ORMOND: I fully appreciate this remark, otherwise the members might have been misled by it. This matter is rather complicated and rather difficult to follow. The amendment proposed by this Bill in relation to sub-section (*1*)(*a*) is to give retrospective effect only for mortgages entered into before 1928. There is no suggestion in the Bill of giving retrospective effect after 1928.

Then, Sir, there is a similar clause in the Bill as it came to this House from the other place before it went to the Select Committee. There is a clause which proposes to amend sub-section (*1*)(*a*) but when we look at the Statement of Objects and Reasons of the Bill we find that there is no suggestion of amending it at all. There is no suggestion even of giving retrospective effect before 1928, much less any suggestion for giving retrospective effect over the mortgages entered into after 1928 and the Bill to which the Statement of Objects and Reasons relates never had any clause amending section (*1*)(*a*) at all. The Bill as originally introduced and as governed by the Statement of Objects and Reasons reads thus. Clause 3 of the Bill was as follows: "After sub-section (*1a*) the following sub-section shall be inserted" and then it goes to another point of legislation which is to be put in sub-section (*1b*) which had no retrospective effect at all as originally framed and as decribed in the Statement of Objects and Reasons. Therefore, it is obvious that to put any retrospective effect at all is to widen the effect of the Bill as given in the Statement of Objects and Reasons. A *fortiori* to increase that retrospective effect beyond the position as it now stands must be, I submit, equally to enlarging the provisions of the Bill. I hope I have made myself clear.

Khan Bahadur M. SHAMSUZZOHA: Mr. President, Sir, the point that has been raised is very important not only with regard to our present but also for our future guidance. I have thought over the matter, and I crave the indulgence of the House to give a patient hearing in the matter so that we may come to an important decision for our guidance. I have seen some of the rulings that were given by the President of the Central Assembly with regard to the scope of an amending Bill and out of them I would refer you to a ruling reported in Volumes I-IV of 1934 (page 2902) where in an amending Bill some amendments were proposed and a contention was raised whether the amendments which were going to be moved in respect of the amending Bill should at all be allowed by the President. The President, the Hon'ble Sir Shanmugham Chetty, declared in this connection that the relevancy of an amendment to an amending Bill should be decided with reference to the scope of the Bill and that the scope of the amending Bill has to be sought for either in the new clauses that the amending Bill seeks to incorporate or in those sections of the original Act which the amending Bill seeks to amend. In other words, there are two principles in deciding the question: either we should examine the relevancy with reference to the amending Bill itself or with reference to the sections of the original Act which are going to be amended. Therefore, in our present case, in order that the point might be decided correctly, it is desirable to find out what are those sections of the original Act which the amending Bill is going to touch. The amend-

ing Bill is going to touch a very important principle involving the present section 26G which consists of several sub-sections. I will now refer you to the fundamental principle which has been enunciated in this section. In the year 1928, the Bengal Legislature provided that for their protection the occupancy *raiyats* would be only allowed to enter into an usufructuary mortgage which shall not or cannot exceed 15 years. That was the most salutary principle which was enunciated by the Legislature for the first time in 1928, and this principle got statutory recognition as section 26G of the Bengal Tenancy Law. With that section was also incorporated sub-section (*4*) as a protective barrier against any invasion of this wholesome measure. Every attempt on the part of the borrower and the lender for the violation of this principle of law was tabooed and some further safeguard in that respect was provided, namely, if there is any document of usufructuary mortgage which purports to exceed 15 years or if there is any document which goes in any way against this very principle, that should not be taken into consideration by any public servant or the court. Now, after having put that restraint on the term of contract, it was found after a certain lapse of time that in the country there have been in existence two forms of usufructuary mortgages because of this enactment, namely, there were some usufructuary mortgages whose lives were limited to 15 years and there were other usufructuary mortgages whose lives were not so limited. In the year 1937 when the present Legislature was enacted, it was found that this salutary principle which was enunciated in 1928 applied to the cases of complete usufructuary mortgages only and not to what are termed under the law as non-complete usufructuary mortgages. Now, it was contended with unanswerable logic that if with regard to the usufructuary mortgages which were entered into after 1928 the salutary provision of 15 years' rule could be applied, why that principle should not also be applied to those usufructuary mortgages which were executed before 1928 and which were still subsisting and were like dead weights on the *raiyats*? It was, therefore, thought desirable and expedient that those usufructuary mortgages which were subsisting before 1928 should also be brought within the purview of that rule. Therefore, Sir, in the year 1938 the existing sub-section (*1a*) was incorporated in the Act by the Bengal Act VI of 1938. This Bengal Tenancy (Amendment) Act, 1938 (Bengal Act VI of 1938) first appeared in Bill form in the *Calcutta Gazette* on the 1st of August, 1937. The underlying principle of this amendment Act of 1938 was that no form of usufructuary mortgage, either entered into after or before the commencement of the Bengal Tenancy (Amendment) Act, 1928, and subsisting on or after 1st of August, 1937, shall have any force or effect exceeding 15 years at the utmost computation. After the passing of the Bengal Act VI of 1938 with a view to evade this law some sort of subterfuges were adopted and some frauds on the

law of the land were committed by the borrowing and lending classes of people when they found that it was not possible to give over possession or accept possession of mortgaged properties for an indefinite period of time in executing ordinary usufructuary mortgages whose life cannot, under the law, be extended beyond 15 years at the highest. The tactics which have been adopted since 1938 in subventing the law consists in giving over possession of the mortgaged property to the mortgagee for a period in excess of 15 years by execution of mortgages of conditional sale or *kat-kabalas*, etc., other than usufructuary mortgages. Now, once the Legislature has accepted the 15-year rule, and when, as now, the Legislature is confronted with peculiar tactics on the part of the people to make the provision of the law nugatory, it is up to the Legislature to incorporate such provisions into the law of the land as can, adequately and effectively, meet these new situations. These new types of mortgages are really usufructuary mortgages but we cannot touch them under the existing law because they are not usufructuary mortgages, strictly speaking. Therefore, the Legislature have got to intervene in the matter. Now, having regard to the principles enunciated in the 1934 ruling cited by me—possibly there have been other rulings since then—I appeal to your experience, Sir, your varied experience of Legislatures—to see that my amendment is declared to be in order which is not only appropriate and relevant but also necessary.

Mr. PRESIDENT: I draw the honourable member's attention to the Bill as introduced in another House. I would like him particularly to answer the point that has been raised by Mr. Ormond. The Chair has no right to enter into the purpose of any legislation. As I have stated, in an amending Bill my attention is strictly confined to interpreting the scope which is to be found in the title, the preamble and the sections of the Bill. I was a member of the Central Assembly at the time when Sir Shanmugham Chetty gave the ruling referred to and I remember this point. You have to see the preamble, the title and the sections. The Legislature is not to take note of the purpose which the Government have in view in bringing forward a legislation. If the sections of a Bill do not fulfil their purpose, it is up to the Government to bring in an amending Bill. If this principle is not strictly adhered to, it amounts to introducing, in an indirect way, a new Bill practically in a revising Chamber. What your amendment seeks to do is to give retrospective effect to a certain legislation and as such it is certainly enlarging the scope of the Bill.

Mr. KAMINI KUMAR DUTTA: Sir, the point raised is a very interesting one and at the same time is a very simple one. The real point is whether the amendment proposed by my friend, Khan Bahadur

Shamsuzzoha, oversteps the scope of the amending Bill itself. On analysing that section, it appears, that sub-section (*1*) of section 26G reads in part as follows:—

> "and notwithstanding anything contained in this Act or in any other law or in any contract, no other form of usufructuary mortgage so entered into after the commencement of the Bengal Tenancy (Amendment) Act, 1928, shall have any force or effect."

Now, in clause (*1a*) inserted by the Bengal Tenancy (Amendment) Act, 1938, there was no necessity for providing for any usufructuary mortgage after 1928. But in this amending Bill, a new kind of mortgage, which is mortgage by conditional sale, is also being sought to be included within the scope of this section, viz., 26G. But the relevant portion in sub-section (*1a*) of section 26G regarding usufructuary mortgages reads thus:—

> "* * * every usufructuary mortgage subsisting on or after the first day of August, 1937, which was so entered into before the commencement of the Bengal Tenancy (Amendment) Act, 1928, shall be deemed to have taken effect as a complete usufructuary mortgage * * *."

It is not really a usufructuary mortgage. Only for the purpose of this particular section it shall have the effect of a usufructuary mortgage, but thereby a mortgage by conditional sale does not become a usufructuary mortgage. So, I submit, Sir, that the scope of the original Bill did not include any mortgage by conditional sale coming after 1928. Really, it may be an oversight on the part of the draftsmen. Apparently it is an oversight but after all, Sir, the Bill as presented in this House does not include any mortgage by conditional sale executed after 1928. That mistake has already been corrected. It is not 1937. It is 1928. I would further say that no doubt it was the intention, at the time when this amendment was proposed, to include them but the intention will not be of any avail; it is the wording of the law that counts. So, my friend's amendment positively extends the scope of the Bill as introduced in this House and as formerly introduced in another House. Of course, we are very sorry for it. For that Government alone is to blame—a very clumsy drafting one must say.

Mr. PRESIDENT: The Chair has been giving anxious consideration to this question and in spite of the rulings given in the Central Assembly and in other parliamentary institutions in India and in England to which reference has been made, I am of opinion that

it really widens the scope of the Bill and in coming to this conclusion I am guided by the fact that the preamble of the Bill is very clear and does not contemplate any such thing as this. It reads:—

> "Whereas it is expedient further to amend the Bengal Tenancy Act, 1885, and the Bengal Tenancy (Second Amendment) Act, 1939, for the purposes and in the manner hereinafter appearing."

It is not contemplated either in the preamble or in the title or in the sections of this amending Bill. In this connection, I am to state that all presiding officers are to look the scope of the Bill not in the Statement of Objects and Reasons but in the title of the Bill or in the preamble.

In the Central Assembly, a question arose on a similar occasion about an amending Bill and the ruling of Mr. Shanmugham Chetty was as follows:—

> "All amendments to a Bill which is before the House must be within the scope of the Bill. The scope of a Bill is to be sought not in the Statement of Objects and Reasons, but either in the title to the Bill or in the preamble to the Bill.
>
> If the Chair holds that an amendment is not within the scope of a Bill, then the question whether sanction has been given or not does not arise."

In 1931, in another ruling also, the President of the Central Assembly said as follows:—

> "The scope of a Bill is to be sought either in the title or in the preamble to the Bill."

So, I rule that this particular amendment is out of order.

Mr. E. C. ORMOND: On a point of order, Sir, rather, on another consequential point of order. In view of the ruling which you have just now enunciated, does it not follow, Sir, that the whole of sub-clause (*1*) of clause 3 is out of order? I submit, Sir, that the whole of that sub-clause is equally out of order. We are an independent House, independent of a House in another place and I submit respectfully, Sir, that it does not matter to you whether a mistake has been made in another place or not. The position apparently is that in another place this sub-clause (*1*) of clause 3 has been discussed and passed, which was in fact out of order and beyond the scope of the Bill. If it is in fact beyond the scope of the Bill, it will be beyond the scope of the Bill to-day, whatever might have happened to it in the

past. What I mean to say, Sir, is this. If that sub-clause (*1*) of clause 3 is in fact enlarging the scope of the Bill, then it is out of order in this House, no matter what has happened to it in another place, no matter whether it has been purported to have been passed in another place and no matter whether it has been discussed by the Select Committee of this House. You will follow me, Sir, that that clause is one which gives retrospective effect. It did not exist in any part of the Bill as originally introduced. It was not a part, not even an indirect part of the Statement of Objects and Reasons. It was not referred to in the Statement of Objects and Reasons and on the test which you have laid down, it was not within the preamble and it was not in any way referred to in the Bill as originally introduced. My submission is that the whole of that sub-clause (*1a*) is enlarging the scope of this Bill because the Bill had no provision for retrospective effect. It says henceforth from the date of the passing of this Bill into an Act certain results will follow, certain mortgages which have been purported to be in force for more than 15 years will cease, certain mortgages will be illegal if they are purported to be in force for 15 years, but there was no backward retrospective provision in the original Bill whatever. There was not a single provision of this sort such as is contained in sub-clause (*1*) of sub-clause (*3*) which says that we will not only make certain mortgages illegal from the date of the passing of this Bill but we will see to it that although the mortgages have been entered into in the past the people will have to lose their land and money in relation to documents which they have legally entered into in the past.

Mr. PRESIDENT: I apreciate the point raised by Mr. Ormond. The House has received the Bill as it has emerged out of the Lower House and we are to discuss and settle the Bill as it has been presented to us. Of course, it is within the powers of this House, if they want, to omit or modify any clause. It is not within the power of the President by his ruling to decide whether the alterations made by the other House were or were not within the scope of the Bill as introduced. I rule that it is not for the Chair to declare whether any amendment carried in the other House was within the scope of the Bill or otherwise.

Rai Sahib INDU BHUSAN SARKER: Sir, I beg to move that in sub-clause (*1*) of clause 3 of the Bill, the words and brackets "(including a mortgage by conditional sale)" in lines 2 to 3, be deleted.

Sir, the purpose of my proposing this amendment is that *status quo* should be maintained in the present state of law relating to possesion under mortgages. I see no justification for the change proposed, and nowhere any reason has been put forward in support of the proposed

change in law. Even if a change is agreed upon, to which I register my strong protest, I entirely disagree with the framers of the Bill in netting in all mortgages by conditional sale within the scope of the proposed change in the existing law. The occupancy *raiyats* are very often in need of money. Sometimes the amount is pretty large and they can only hope to secure it by an out-and-out sale deed. It is only by means of mortgages by conditional sale that they can secure a large sum of money; at the same time they retain the chance of getting back the land whenever they can collect the requisite sum wherewith to pay the mortgages. Under the terms of this kind of agreement, the mortgagor does not stand to lose anything. He always possesses the right to get back his land on payment of a fixed sum of money, in most cases equal to the amount he borrowed. Yet the Bill proposes that the mortgagee shall have to give back the possession of land after fifteen years, though he is repaid nothing by the mortgagor. The tenants of Bengal are proverbially improvident and wanting in thrifty habits, and if the holding or tenure which has been given in mortgage remains in their possession, they will not be in a position to repay their creditors, and in that case the mortgagees are liable to grave risks of non-realisation of their dues. The retention of possession in the hands of the mortgagees is the only effective method by which their dues may be realised. It is also the most expeditious method. Mortgage with possession has been recognised to be valid in all systems of law and in all countries. I do not, therefore, see any reason why retention of possession should be prohibited. Moreover, the present amendments seek to give a retrospective effect to every mortgage, including a mortgage by conditional sale. This proposal is clearly inequitable and expropriatory in character. The Bengal Agricultural Debtors Act and the Money-lenders Bill have already given a death blow to rural credit. The proposed amendments, if incorporated into law, would restrict credit in rural areas furthermore. With these words, I commend the exclusion of mortgages by conditional sale from the scope of the proposed change for acceptance of the House.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 3 of the Bill, the words and brackets "(including a mortgage by conditional sale)" in lines 2 to 3, be deleted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I rise to oppose this amendment because the retention of these words is very necessary in order to make the Bill clear. My honourable friend has also opposed it on its merits so far as I could understand him from here. I think I need hardly repeat that the object is to place conditional sale exactly on the same footing as other forms of usufructuary mortgages, that is,

to limit their terms to 15 years. In the 1928 amendment all sorts of usufructuary mortgages except complete usufructuary mortgages as defined in the amending Act of 1928 were made illegal. In the 1938 amendment, all other forms of usufructuary mortgages were placed on the same footing as complete usufructuary mortgages entered into before 1928. Now the proposal is to bring in conditional sales so as to place conditional sales on the same footing as complete usufructuary mortgages because after 1928 in order to avoid the law many of the tenants took to the subterfuge of executing anomalous mortgages, *kat-kabalas* or other forms of usufructuary mortgages and to prevent alienation of land by mortgages we have to include all the three classes of mortgages and place them on the same footing. It is, therefore, essential that conditional sale should also be placed on the same footing as expressly mentioned here.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I would say a few words regarding the character of mortgages by conditional sale. The only practical difference between this kind of mortgage and an usufructuary mortgage is that in the usufructuary mortgages, possession of the mortgaged property is delivered to the mortgagee so as to allow the usufruct of the property gradually to wipe out the interest or the principal or both. In a mortgage by conditional sale the question of delivery of possession to the mortgagee does not at all arise. Usufructuary mortgages cannot now be extended beyond 15 years. In order to avoid this difficulty, the money-lenders have adapted mortgages by conditional sale to suit the purposes of usufructuary mortgages. They induced their debtors to execute mortgages by conditional sale and made them deliver the possession of the property to themselves. I have carefully considered the elements of these two kinds of mortgages and the only substantial difference was as to the delivery of possession. So, mortgages by conditional sale in which possession is delivered to the mortgagee, therefore, for all practical purposes, are exactly equivalent to usufructuary mortgages. In these circumstances, when we are already committed to the principle that usufructuary mortgages should be brought within the 15-year rule, a mortgage by conditional sale of this type which is nothing better than a *benami* usufructuary mortgage, should also be brought within the purview of the same rule. This is an additional reason for opposing this amendment.

Khan Bahadur M. SHAMSUZZOHA: The apprehension on which my friend Rai Sahib Indu Bhusan Sarker is labouring is groundless, because what we are enacting in this: Only those mortgages by conditional sale which are followed by delivery of possession will be brought under this rule; other mortgages by conditional sale which are pure and

simple mortgages by conditional sale have not been brought within it. Therefore, my friend's contention has no legs to stand upon.

Rai MANMATHA NATH BOSE Bahadur: The object of this amendment is to exclude this expression for the reason that the clause may be consistent and that there may be no contradiction. As I have said before, there is nothing in the definition of the mortgage by conditional sale which makes it necessary that possession should be handed over to the mortgagee. All that is essential in a case like this is that in default of payment at the right time, the security should become the absolute property of the mortgagee. The ostensible sale need not be accompanied with possession. If the words are intended to be retained, you shall have to add something after the word "sale" to make the meaning clear. I submit that attempt should be made to use accurate expression, otherwise considerable difficulties will arise. I believe, Sir, that the Hon'ble Minister is aware that the language used here is not clear. However, I do not wish to dilate on this point, and as I have said something regarding this in my minute of dissent, I hope the House will consider this and try to avoid misinterpretation when this matter is brought before Court and unless and until this passage is excluded that considerable difficulties will arise there can be no manner of doubt.

Mr. E. C. ORMOND: We, on this side of the House, are in favour of this amendment. Our reasons are these: it is an amendment of sub-clause (*1*) of clause 3 of the Bill. As you say, Sir, sub-clause (*1*) makes an amendment of sub-section (*1a*) of section 26G. Sub-section (*1a*) is a part of section 26G of the original Act. This is a sub-section which relates to retrospective effect. Everything that has been said is in favour of preventing the occupancy *raiyats* from entering into mortgages by conditional sale where possession is delivered. If I may go back for a moment, this amendment relates to an amendment of sub-clause (*1*) to clause 3. Sub-clause (*1*) of clause 3 in its turn amends sub-section (*1a*) of section 26G of the original Bengal Tenancy Act. This is the only sub-section which deals directly with retrospective effect. Now, if this amendment is not passed, it will be quite clear that mortgages by conditional sale would be brought into the net of the retrospective effect of this Bill, when entered into before 1928. We, Sir, on this side of the House are against retrospective effect and interference with existing legal rights which have been entered into in existing documents——

Mr. PRESIDENT: Order, order. The House will now take up the discussion of the Adjournment Motion. Rai Keshab Chandra Banerjee Bahadur.

Adjournment Motion.

Rai KESHAB CHANDRA BANERJEE Bahadur: Mr. President, Sir, I beg to move that this House do adjourn to discuss a definite matter of urgent public importance and of recent occurrence, namely, the failure of Government to take proper and immediate steps to meet the situation created by the scavengers' strike and to prevent the outbreak of infectious diseases in the city of Calcutta and its outskirts which is imminent owing to the filthy condition of the town.

Sir, I move the motion with a full sense of responsibility. It is not my intention to censure the Government for their acts of commission and omission in connection with the scavengers' strike. Had not the health of about one and a half million people been in peril, I would not have brought forward this motion. It is nearly a week that the scavengers have struck work and no settlement is yet in sight. Calcutta presents the spectable of a city after a prolonged siege. The roads and bye-lanes are littered with street refuse, carcasses and garbage of all sorts from which pestilential effluvia are constantly emanating and contaminating the atmosphere. The noxious stench of the accumulated filth has become a positive source of danger to public health, and it threatens the entire population with a serious outbreak of epidemics.

Sir, it has been argued on behalf of Government that the civic amenities of Calcutta are not primarily the concern of the local Government. I admit that it is so; but the Government of the day have a great responsibility in this matter. It cannot be gainsaid that they are the supreme authorities who control every department of our public and social life. Apart from the legal aspect of the question, it has a moral side which cannot be ignored altogether.

I shall presently show how the local Government can intervene in the matter. In this strike, three departments of Government are concerned; firstly, the Ministry of Labour, secondly, the Ministry of Public Health, and, thirdly, the Ministry of Law and Order. So, neither the Minister of Labour, nor the Minister of Public Health, nor the Home Minister can absolve himself of the responsibility which attaches to his office. We are told by the Chief Executive Officer of the Corporation that the scavengers went on strike suddenly, without previous notice and without formulating their demands. About 25,000 workers are reported to be involved in the strike.

The Hon'ble Mr. H. S. SUHRAWARDY: No, it is not 25,000; it is 15,000.

Rai KESHAB CHANDRA BANERJEE Bahadur: It has been reported in the newspapers that the number of strikers is 23,000, and I have heard other estimates. However, whatever the number may be, there is no doubt that it is very large.

First of all, it is the duty of the Labour Minister to intervene and devise means for a settlement. Perhaps the appoinment of an Inquiry Committee or a Board of Conciliation may end the present *impasse*. It should also be ascertained definitely whether the strikers have a genuine grievance or whether the strike has been engineered by unscrupulous agitators to serve their political or personal ends and whether it is a fact that a statement was made by the Mayor at the last meeting of the Corporation held on Saturday, the 30th March, 1940, that he had been told while on a visit to a *dhangar bustee* that a certain lady would decide when the strike should be called off. If that is the impression of the strikers, then the person or persons who foment such trouble should be properly dealt with. There should be no playing with human lives (Cheers from Congress Benches); it can hardly be tolerated. Coming now to the question of public health, it cannot be said that the Minister in charge of the Department of Public Health and Sanitation has nothing to do in the matter. Supposing for argument's sake that the Corporation Executive are inefficient, or, at any rate, indifferent to their duties or have failed in their attempt to restore normal conditions, then will the Government sit idle and watch silently the grim tragedy that is about to befall the residents of this second city in the British Empire? Do the Government want us to believe that they are powerless to do anything according to law? Has not the Home Minister a direct responsibility in the maintenance of Law and Order? Unlike the average man, God has unfortunately given him short arms, but is not his official arm long enough to deal with any abnormal situation that may arise if he will only choose to stretch it out? When one hears reports of violence by the strikers, assaults on volunteers and others engaged in removing the street refuse and in lighting the street lamps, one will naturally think of the Home Minister and appeal to him for protection. So, it will appear that Government cannot deny their responsibility in the matter under discussion.

Sections 16, 17 and 18 of the Calcutta Municipal Act, 1923, give the Government adequate powers, as has already been pointed out, to intervene and require the Corporation to do a particular thing to their satisfaction. Section 16 lays down the power of the Local Government to depute officers to make inspection or examination and report; under section 17, the Government may require the Corporation to take action; and section 18 prescribers certain procedures by which the local Government can, in case of default, penalise the Corporation.

Sir, the situation is worsening. Not only is the city in the grip of dire epidemic diseases, but it is threatened with a general strike which the street-lighting staff and 2,000 employees of the Corporation attached to the Water-Works Department have, it is reported, already joined. The town was at places steeped in darkness last night. The efforts of the Corporation authorities have so far proved abortive and unless they are zealousy backed by Government, no immediate improvement in the situation is possible. The result will be the total collapse of the civic administration of Calcutta, which will bring in its train pestilential diseases, thefts, burglaries, etc., and there will also be complete dislocation of vehicular traffic due to the deposit of rubbish in the middle of the roads and the barricading of streets with dust-bins here and there by the strikers, and so on. This is, perhaps, the first time within living memory that Calcutta is faced with a situation like this. It is a strange irony that the strike has followed closely in the wake of the "Cleaner Calcutta Campaign" (Ironical cheers from Congress Benches), initiated recently by the Hon'ble Minister for Public Health and the particular department of the Calcutta Corporation which organized the movement.

Sir, the ætiology of the present strike is said to be the enhancement of salaries of certain officers of the Corporation and the demand of "War allowance" by the strikers owing to the gradual rise in the prices of the daily necessaries of life. I do not know what will be the increased expenditure if the strikers' demands are met and whether considering the present state of its finances the Corporation is in a position to incur this additional liability. In spite of the Government's declaration to regulate the prices, the results obtained are far from satisfactory. It seems that the Government have not been able to control profiteering, as will be evident from the steady rise in the prices of foodstuffs which cannot be traced to war conditions. Could not an assurance be given to the strikers that all commodities of daily consumption which were not imported from foreign countries would henceforth be sold under Government control and supervision at pre-war prices, namely, those ruling in July, 1939. The rates then prevailing might be taken as the basis for the purpose of regulating the market. If this is done, then I think the strikers will give up their demand for extra allowances. But to my mind, all attempts at settlement should be preceded by an unconditional calling off of the strike for administrative reasons; otherwise, all institutions, whether Government or private, will find themselves in a quandary to deal with strikes in future which seem to be the order of the day. (Cheers from Congress Benches.)

Mr. PRESIDENT: Motion moved: that this House do adjourn to discuss a definite matter of urgent public importance and of recent

occurrence, namely, the failure of Government to take proper and immediate steps to meet the situation created by the scavengers' strike and to prevent the outbreak of infectious diseases in the city of Calcutta and its outskirts which is imminent, owing to the filthy condition of the town.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I have full sympathy with the real intention behind the adjournment motion, viz., to draw public attention to the scavengers' strike and the consequent insanitary condition of the town which are causing considerable inconvenience to the public. But I do not agree that the Government has brought about this condition or is allowing this condition to continue. The powers of the Government are clearly defined under sections 17 and 18 of the Calcutta Municipal Act. I beg to submit, Sir, that these powers are extremely limited and are not at all of an arbitrary or absolute character. Under section 17, the Government must get a report from the Corporation or from some officer appointed by the Government pointing out certain negligence or failure to perform some statutory duty. The Government may then require the Corporation to perform that duty and must give the Corporation a period of time within which to perform that duty. Section 18, then says that if at the expiration of the period fixed by Government, the things required by Government to be done have not been done by the Corporation, then Government may intervene and have those things done. Sir, it is clear, therefore, that the Government must allow the Corporation itself to perform the duty and cannot interfere unless the Corporation fails to perform the duty within the prescribed period. The powers of Government are not at all absolute or unrestrained.

(Mr. A. C. Hunter at this stage took the Chair amidst cheers.)

Mr. Chairman, Sir, as I was submitting a moment ago to your illustrious predecessor in office (Laughter.) the powers of Government being limited in this way, it was impossible for Government to proceed informally and take charge of the administration in a summary manner. It would be intolerable if the Government would interfere with the day-to-day administration of an autonomous body without giving that body sufficient time to discharge their duties in a normal manner. Supposing the Government did so, then my friends on the Congress Benches would have justly tabled an adjournment motion to the effect that the Government had taken improper advantage of their powers and interfered with the internal administration of the Corporation in an arbitrary and high-handed manner. The argument would have been that it was an autonomous body and it should be given time to manage its domestic

business properly and without interference from anybody. It should get real opportunity and time to settle the matter; but the scavengers' strike and the consequent trouble cannot be cured in a day.

Rai KESHAB CHANDRA BANERJEE Bahadur: But seven days have already passed.

Khan Bahadur NAZIRUDDIN AHMAD: No doubt that is so; but what could the Government do in this short interval? Could they manufacture a large army of scavengers and organize them in seven days? Is it practical politics to expect this startling result?

Rai KESHAB CHANDRA BANERJEE Bahadur: What would have been the case if it happened in a European country?

Khan Bahadur NAZIRUDDIN AHMAD: If it were in Hitler's country, he would have shot down some of the strike leaders. (Laughter.)

Rai KESHAB CHANDRA BANERJEE Bahadur: Had it been in England, what would the Government have done?

Khan Bahadur NAZIRUDDIN AHMAD: The Labour leaders there are more responsible than the leaders here. They would not spread disease in the town to secure an advantage. Our strike leaders want to profit by spreading epidemic disease in the town. They would profit at a terrible cost to the public. That is the trouble here. But in any case Government interference in a similar case in England would be unthinkable. In order, therefore, to judge this question, the powers of the Government should be looked into and as I have submitted the powers of Government are limited. Supposing the Government had the power to interfere, it should certainly allow a fully competent autonomous body to deal with the situation like this and give it sufficient time to settle the affair. If the Corporation absolutely fails to restore the service, then and then only the Government might interfere. Though I fully agree that much inconvenience has been caused, it is impossible to support the adjournment motion. That would be shifting the responsibility from the Corporation without any reasonable grounds and placing it on wrong shoulders.

Mr. NUR AHMED: Frankly speaking, it is a surprise of surprises to me to see that the motion has come from that learned member who had held the office of Chairman of a similar self-governing body. I

would have thought that he would be the last person to come forward with such a motion. It is a motion for censuring the Government for their non-interference with the work of a self-governing body.

Rai KESHAB CHANDRA BANERJEE Bahadur: On a point of personal explanation, Sir. It was never my intention to censure Government or anybody concerned.

Mr. NUR AHMED: I do not say that it was his intention, but it is the purpose of every adjournment motion to pass a censure on Government.

Khan Sahib ABDUL HAMID CHOWDHURY: On a point of order, Sir. When I rise on this point of order I do not mean that I have any objection to your occupying the Chair, but I only raise this point as I think that nobody in the presence of the Deputy President can occupy the Chair.

The Hon'ble Mr. H. S. SUHRAWARDY: On a point of order. The point of order fails because the Deputy President has left the Chamber.

Mr. H. C. A. HUNTER: When I occupied the Chair, the Deputy President was not here and he is not here at the moment. So, your point of order fails.

Khan Bahadur NAZIRUDDIN AHMAD: On a point of order. When the point of order was being attempted to be supported by authority, the Deputy President seeing the danger at once ran away from the House. This I submit is an abdication of the powers of the Deputy President.

Mr. NUR AHMED: It is really regrettable that Calcutta, the second city of the Empire, has become very filthy and is on the verge of imminent danger. The atmosphere is surcharged with bacteria of diseases and epidemic may break out at any moment. The danger is imminent and of course there is no time to lose, but we must consider how far the Government can interfere with the affairs of a self-governing body. About six days have elapsed and no action has been taken by Government, but the learned mover of this motion is an expert in the law of self-government and he knows what are the laws. There is a provision that Government can interfere and can call for a report from the body concerned and after that body has given an explanation Government should consider it. If they find they would be justified in interfering with the affairs

of the self-governing body, they may do so. Just now we have heard that a report has been called for from the Chief Executive Officer, and I think his report when received will be considered by the Government and then if Government think there are reasonable grounds for interference they will do so. But in my humble opinion Government should consider very carefully before they take any action against a self-governing body. It is a real difficulty owing to circumstances over which they have no effective control. With these few words, I oppose the motion of adjournment.

***Khan Bahadur Maulvi MUHAMMAD IBRAHIM:** কলিকাতা কর্পোরেশনে ধাঙ্গড়দের ধর্ম্মঘটের দরুণ কলিকাতায় যে অবর্ণনীয় অবস্থা উপস্থিত হইয়াছে তাহা বক্তৃতার দ্বারা বুঝাইবার কোন উপায় নাই। আমি এটা জানিতে পারিয়াছি যে বেনেপুকুর অঞ্চলে কলেরা পর্য্যন্ত আরম্ভ হইয়াছে। এ বিষয়ে যে গভর্ণমেণ্টের লেবার মন্ত্রীর একটা দায়িত্ব আছে সেটা অস্বীকার করিবার উপায় নাই। গভর্ণমেণ্টর লেবার মন্ত্রী সেই দায়িত্ব হইতে দূরে থাকিবার জন্য চেষ্টা করিতেছেন। এছাড়াও অন্যান্য অনেক ব্যাপারে গভর্ণমেণ্ট তাঁহাদের দায়িত্ব এড়াইবার চেষ্টা করেন। সেদিন Muslim Instituteএ বাংলা ভাষা এবং উর্দ্দু ভাষা লইয়া বিতর্কের সময় একটি M.Sc. classএর ছাত্র আহত হয়। এ বিষয়ে গভর্ণমেণ্টর শান্তি ও শৃঙ্খলার ভারপ্রাপ্ত মন্ত্রী কি করিয়াছেন তাহা আমি অবগত নহি। এই জন্য যতরকম—

The Hon'ble Mr. H. S. SUHRAWARDY: On a point of order, Sir. It is hardly fair for the honourable member, if I may say so, to take advantage of the Chair by delivering a speech in Bengali on matters which are wholly irrelevant to the matter in issue before the House. A student's meeting was held yesterday in the Moslem Institute and an incident occurred there, but to bring it in in connection with the scavengers' strike and the responsibility of Government therefor is irrelevant. I do not know whether the honourable member suggests that the Government had some responsibility for the disturbance at the students' meeting also. It is hardly fair on the part of the honourable member.

Mr. H. C. A. HUNTER: It would be better if the honourable member confines his remarks to the matter under discussion.

Khan Bahadur Maulvi MUHAMMAD IBRAHIM: কলিকাতা কর্পোরেশন সম্পর্কে Ministerরা যে অযোগ্যতার পরিচয় দিয়েছেন সেই সব বিষয়েই আমি বলিতেছি। এই প্রসঙ্গে বলিতে চাই যে গভর্ণমেণ্টের অন্যান্য বিভাগেও এইরূপ অত্যাচার

*An authorised English translation of this Bengali speech will be found in the Appendix.

অবিচার চলিতেছে। আমি বলিব বাঙ্গলার League নামক একটা জিনিষের নামে নানারূপ গুণ্ডামি, গুণ্ডামি, ধাপ্পাবাজি করা হইতেছে। পাবনা, বগুড়া প্রভৃতি স্থানে এবং কলিকাতার নানাস্থানে Leagueএর নামে গুণ্ডামি হইয়াছে। আমি যদি সময় পাই তাহা হইলে দেখাইতে পারি ইহারা পাবনার লীগের নামে কিরূপ গুণ্ডামি করিয়াছে। Khan Bahadur Abdur Rashid সাহেবও এ বিষয়ে প্রমাণ দিতে পারেন। তাঁর নিকট লীগ নমিনেসনের জন্য ১,০০০ টাকা লইয়াছেন আরও টাকার জন্য তাঁকে তাড়া দিতেছেন।

Mr. H. C. A. HUNTER: Order, order. The House stands adjourned for prayer.

After adjournment.

Mr. PRESIDENT: আপনি নয় মিনিট বক্তৃতা কোরেছেন, আর এক মিনিট বক্তৃতা করিতে পারেন।

Khan Bahadur Maulvi MUHAMMAD IBRAHIM: আজ ছয় দিন ধরিয়া এই ধর্ম্মঘট চলিতেছে। এর দ্বারা Labour Ministerএর অযোগ্যতার প্রমাণই পাওয়া যাইতেছে। মন্ত্রীমণ্ডলীর পক্ষেও এটা প্রশংসার বিষয় নহে। তাঁহারা অন্যান্য বিভাগে অন্যান্য ব্যাপারে যেরূপ ভাবে অযোগ্যতার পরিচয় দিয়াছেন ও লীগের নামে অত্যাচার করিয়াছেন কলিকাতার ধাঙ্গর ধর্ম্মঘট ব্যাপারেও তাহা অভিন্ন—

Mr. PRESIDENT: আপনার সময় উত্তীর্ণ হইয়াছে।

Mr. HUMAYUN KABIR: Mr. President, Sir, this is a matter on which I think there will be general agreement among all sections of the House and the picture which the Rai Bahadur has painted of the conditions in Calcutta are such that there can be no responsible member in this House but will shudder at the prospect which has been opened up before the city. The question is where are we to attribute responsibility for it. The Hon'ble Mr. Suhrawardy has said with a great deal of reason, or at any rate of apparent reason, that Government have no direct responsibility in the matter. It is true that Government have no direct responsibility in the matter—because the Calcutta Corporation is an autonomous body—and it is also right when he says that any interference with the rights of an autonomous body is such a serious matter that the Government should pause and consider before they undertake the responsibility. So far, I think all sections of the House are at one with him. It is true that there is no direct responsibility. It is also true that Government should not interfere till interference becomes absolutely inevitable or essential. Now, Sir, the question which we have to decide is, has that situation arisen? Even now the Government say that since it is an autonomous body, Government should not

interfere with the functioning of the autonomous body but allow it an opportunity to go on. I think, Sir, here there will be a difference of opinion from that expressed by the Hon'ble Mr. Suhrawardy. Mr. Suhrawardy is still prepared to wait and see how the Corporation manages the affair. Seven days of the strike have already passed and as yet nothing has been done. The relevant sections to which attention has been drawn by the Rai Bahadur—and which the Hon'ble Minister himself admitted—definitely lay down that Government have the power to institute an enquiry or to require the Corporation to do a certain thing within a certain definite time. That is the first stage of what the Government can do. Here, I do not think it will be possible for anybody to say that there is an undue interference with the functioning of the autonomous body, viz., the Calcutta Corporation. This strike broke out on the 26th March and from the reports which we have seen in the papers we find that this matter has been prominent before the Corporation for the last three or four months. The question was raised in the Corporation and a resolution actually moved by one of the Councillors. After that occasional notices were given to the executive officers concerned and from the reports it also appears that on the 2nd March further intimation was given to the executive authorities of the Corporation that if the Corporation did not take steps to remedy the grievances from which the scavengers were suffering, they would be forced to resort to a strike. I do not think, Sir, it is therefore possible for anybody to say that it was a lightning strike. There was notice, three or four months old, and there was the further notice on the 2nd March before the strike actually took place. I think, Sir, that even dates were announced and there were meetings held in which it was announced that a strike of this nature might be started about the middle of March. I think the date which was suggested at that time was the 10th March. The Corporation practically slept over the matter. It would not be true to say that in the meantime the Corporation was not meeting. The Corporation was meeting. It was undertaking business, some of which was certainly of less importance than the question which was brought up by the questioner of the scavengers' strike. It was the question of payment, and I think it will not be an exaggeration to say that many of the officers of the Calcutta Corporation have been given extensions or increments during the course of the last month. Well, Sir, these are all important matters. The question of the appointment of the Chief Executive Officer is a very important matter because the whole administration of the Corporation depends on him. This very important matter was taken up towards the fag end of the life of the Councillors of the last Corporation. The question of the promotion of the Chief Engineer is also a very important matter.

That matter also was taken up. Therefore, it cannot be said that the old Corporation was nearing its term and therefore important matters could not be taken up. As a matter of fact, important matters were taken up and were disposed of one way or the other.

Again, Sir, on the 26th March the strike broke out and what should Government have done at that stage? I quite agree with the Hon'ble Mr. Suhrawardy that on the 26th perhaps it was not possible for Government to do anything. But it was possible and permissible under the law that Government should have fixed a time-limit, say 24 hours or even 48 hours, within which it should have given certain directions to the Corporation to do certain things and seen that they were done—in the meantime watching the situation and seeing what the Corporation was doing to tackle the situation. It is perhaps permissible for Government to say that in cases of a different nature Government should not interfere with the autonomous functions of the Corporation. But here the matter was of such a pressing nature that they could not wait indefinitely allowing the Corporation to take control of the situation and deal with the matter in a leisurely manner. As one member said, on the first day or on the second day Government took recourse to force to break up the strike. If that is so, Government had taken some sort of part in the activities arising out of the strike. Government was therefore not neutral. If the Government had a duty with regard to the maintenance of law and order, did not the Government have an equal duty with regard to the maintenance of the health of the city, with regard to the maintenance of the sanitary conditions in the city? But Government did nothing of the kind and did not exercise the powers conferred on them by section 17 to institute an enquiry. Had they done so, I think, Sir, nobody would have any quarrel with the action which the Government had taken; on the other hand, every one would have welcomed such timely action. Government should have taken such action in the very beginning. Had they done so, they would have added a feather to their cap. The result was that the situation was deteriorating gradually. Therefore, Sir, I think that Government cannot be absolved altogether of all the blame for this unsatisfactory state of affairs. There is no doubt—and I do not want to contest the point—about the fact put forward by the Hon'ble Mr. Suhrawardy that it is primarily the concern of the Calcutta Corporation.

(At this stage the member having reached the time-limit asked for one minute more; it being not granted, he resumed his seat.)

Mr. KAMINI KUMAR DUTTA: Sir, as to the facts set out in this adjournment motion, it requires no report from other sources. The members themselves have personal experience of the accumulation of the

vast filth in the town. But at the same time the very fact that this motion aims at taking to task the Government for failure to perform the duties which Government ought to have done proceeds also upon the assumption of the inefficiency of another body, viz., the Calcutta Corporation, because in the sections 16, 17 and 18 it is quite apparent that the Government can take action only when the Corporation has failed to do its duty. Really, in moving this motion one cannot escape from that position altogether that it also assumes the inefficiency of a particular body, the Calcutta Corporation. But at the same time, I will not be strong in my language if I say that the Government should not think it proper to assume an attitude of inactivity in order just to put the past administration of the Calcutta Corporation in the wrong and lower the past administration of the Calcutta Corporation in which the Congress Party was pre-dominant, in the estimation of the public. (The Hon'ble Mr. H. S. SUHRAWARDY: *Et tu Brute'*?) Any such attitude on the part of the Government certainly cannot be supported in the least. One is inclined to have some such idea in his mind looking to the present inactivity of the Government. That idea may not be altogether out of place in their minds. But at the same time, as I have already stated, it is a fact which has been uttered on the platform that the state of things in the Calcutta Corporation has been described as the accumulation of dirt compared to the Augean stables. It must be admitted that the past administration was not as it ought to have been, but at the same time when the strike did break out it was an onerous duty imposed upon the present Government. The election of the Calcutta Corporation took place on the 28th and after that there is no legally constituted body at all to manage the affairs of the Calcutta Corporation. The new Councillors have not yet taken the oath. They are not in charge of the affairs of the Calcutta Corporation. It is only the executive officers who are managing the affairs of the Calcutta Corporation. So, taking these facts into consideration the Government ought to have been more alert and should have handled the situation without any loss of time. It is no use blaming the past administration. If they failed in the discharge of their duty, that blame would not satisfy the ratepayers. The situation which has now arisen has been described by the Mayor as a lightning strike, but on the facts which have now been stated in this House by my honourable friend Mr. Humayun Kabir, it is very hard to call it a lightning strike, if it is really a fact that the scavengers had given notice of their grievances at least four months before. However, it is quite possible that no action had been taken by the past Corporation because that body was at the fag-end of its term. It may be for other reasons also because as has been very rightly said, if they could increase the salaries of the highly paid officers there is no reason why they should not pay any head to the low-paid scavengers. Anyhow, it is no use dwelling

on the failure of the past administration. We are concerned with the present state of affairs, viz., the strike which did happen at a time when there was no Corporation, no legally constituted body of Council, to manage the affairs of the Corporation; and remembering these facts it was the bounden duty of the Government to at once take charge of the reins of office which legally they could do, ask the executive officers what steps they were taking to tackle and to improve the situation; and if they failed to arrive at a satisfactory solution, the Government had ample power to take charge of its administration. Moreover, as it would appear that the dispute is regarding the grievances of some labourers, I think the Hon'ble Minister in charge of Labour could have handled the situation very tactfully and could have eased the situation at least for the time being. It was the duty not only of the Minister in charge of Public Health and Sanitation, but I think it was also the duty of the Minister in charge of Labour to ease the situation and to persuade the labourers to call off the strike at least temporarily, so that some sort of compromise or solution might be arrived at. I need not suggest remedies for the future. It will be the business of the Hon'ble Minister in charge of Labour to see how to meet a situation like this. But looking to the grievances of the labourers one thing appears to be quite transparent, that the strikers have grievances and really genuine grievances. Though it has been said that strikes are sometimes engineered and in this case the strike might have been engineered, I for myself refuse to believe that. It is a strike arising out of genuine grievances; it was not engineered by the Labour leaders. This strike arose out of real and genuine grievances of the poor sweepers, and I have no doubt that Government are also convinced that these grievances are genuine. So, they ought to have handled the situation much earlier and ought to have arrived at some solution. It cannot be gainsaid that if the accumulation of filth goes on increasing in the manner in which it is being increased, it will be impossible to live in this town. It is only in some quarters that it is possible to move about the streets without bad smell stinking in the nose, but in most parts it is almost impossible to live. There is not only an accumulation of filth on the streets, but there are privies which are of the old type—privies which are served by the *mehtars*. You can just imagine the miserable condition of the people living in such houses where such privies exist? No apportionment of the blame between the two bodies, the Ministry and the Corporation, would alleviate the situation in the least. The ratepayers have the right to live and live comfortably, and it is the duty of the Ministry as well as of the Corporation to minister to their comforts.

Mr. MESBAHUDDIN AHMED: I move that the question be now put.

Mr. PRESIDENT: The Chair is agreeable to put the question of closure subject to the right of Government to reply.

The question before the House is that the question be now put.

A division was challenged and then the House divided with the following result:—

AYES—20.

Ahmad, Khan Bahadur Naziruddin.
Ahmed, Mr. Meshahuddin.
Ahmed, Mr. Nur.
Barua, Dr. Arabinda.
Chowdhury, Khan Sahib Abdul Hamid.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Mr. Hamidul Huq.
Chowdhury, Khan Bahadur Rezzaqui Haider.
D'Rozario, Mrs. K.
Hosain, Khan Bahadur Sayed Muazzamuddin.
Hossain, Mr. Latafat.
Hunter, Mr. H. C. A.
Karim, Khan Bahadur M. Abdul.
Khan, Khan Bahadur Muhammad Asaf.
Molla, Khan Sahib Subidali.
Ormond, Mr. E. C.
Rashid, Khan Bahadur Kazi Abdur.
Roy, Rai Bahadur Radhica Bhusan.
Roy Chowdhury, Mr. Krishna Chandra, O.B.E.
Shamsuzzoha, Khan Bahadur M.

NOES—15.

Banerjee, Rai Bahadur Keshab Chandra.
Bose, Rai Bahadur Manmatha Nath.
Chakravorti, Mr. Shrish Chandra.
Choudhury, Mr. Moazzemali.
Das, Mr. Lalit Chandra.
Dutta, Mr. Kamini Kumar.
Goswami, Mr. Kanai Lal.
Ibrahim, Khan Bahadur Maulvi Mohammad.
Kabir, Mr. Humayun.
Mukherji, Rai Bahadur Satis Chandra.
Pal Choudhury, Mr. Ranajit.
Roy, Mr. Amulya Dhone.
Sarker, Rai Sahib Indu Bhusan.
Sinha, Rai Bahadur Surendra Narayan.
Sinha, Raja Bahadur Bhupendra Narayan Nashipur.

Mr. PRESIDENT: Order, order. The House has divided: the "Ayes" being 20 and the "Noes" 15, the motion is carried.

The Hon'ble Mr. H. S. SUHRAWARDY: I am deeply grateful to those honourable members who desired to prolong the discussion, because they wanted to use the opportunity to support the action of Government on this question and to oppose the adjournment motion. The sole reason why we were unable to accede to their request to prolong the discussion was that there are other important matters which are pending before this House which we should like to get on with to-day. I welcome this motion because it gives me the opportunity to state before this House on behalf of Government the action that we propose to take, but I must confess that I was a little bit surprised to find that the Congress Party should have supported a motion which aims not so much at blaming Government for inactivity as at blaming the Corporation and the authorities of the Corporation for their incompetence and calls upon Government to take drastic steps as are required by sections 15, 16, 17 and 18. There was a man long ago who was known as Brutus and who stabbed Cæser. I think Babu Kamini Kumar Dutta should henceforth be called the Brutus of this House. If Government have not interfered, it has not been for the purpose of showing up the incompetence of the

Corporation and of the authorities but just the reverse; for, if Government had interfered that would have shown up the incompetence of the Corporation and would have been tantamount to condemnation on the part of Government of the manner in which the Calcutta Corporation has dealt with the situation. My friends then would have come up and said that Government had taken revenge against the Corporation because it has hitherto been managed or mismanaged by the Congress Party. Mr. Dutta states that at the present moment the Corporation is *functus officio;* it is not working for various reasons probably because new members are coming in, and that if there is any incompetence, it is really the incompetence of the executive authorities. Mr. Dutta is not aware that last Saturday, that is day before yesterday, there was a special meeting of the Calcutta Corporation, of the Congress Corporation, which met together for the purpose of considering the present situation and which came to the conclusion that nothing should be done (they really resent any interference on our part) until the strikers went back to work and then they will consider what should be done. But we have not been idle. I think it is an unfounded charge—but such unfounded charges come very easy to Mr. Humayun Kabir—to say that Government have done nothing. Ever since the position deteriorated, the Government have been in touch with the Chief Executive Officer. We have certain responsibilities under section 545 of the Calcutta Municipal Act, namely, to co-operate with the Corporation for carrying into effect and enforcing the provisions of the Act, and for the maintenance of order in Calcutta, the Commissioner of Police and his subordinates are bound to so co-operate. Under this section the police have given help in clearing the streets of refuse, and in helping those who have been clearing it in spite of assaults on them, which unfortunately have led to a fracas which we deplore. Sir, I do contest the point of view taken up by Rai Keshab Chandra Banerjee Bahadur that we should have interfered to such an extent that it would have amounted actually to breaking the strike. Government will never be a party to that. Government feel that under the present circumstances the scavengers have a fair case. This case requires investigation. This case requires enquiry and we desire that their case should be looked into so that justice may be done to them. So, we are not prepared to take action in such a manner that it may be interpreted by the strikers as an effort on the part of Government to break the strike. As a matter of fact, Sir, even the statutory obligation imposed on us and which the Government are discharging, has led in some quarters to that misapprehension, and I would like to disabuse any such view they may happen to entertain.

Sir, the Chief Executive Officer has been sending us reports as the situation develops. You will see, Sir, that under section 15 we can call upon the Corporation to report on any matter. The Chief Executive

Officer has been in constant touch with us and has been submitting reports to us. The next step contemplated is that under certain circumstances Government may depute an officer and ask him to report to them the result of any inspection or examination and that officer may require the Corporation to furnish any report. Honourable members can well understand that these sections are applicable only in cases of continued mal-administration and not in a case like this where immediate action is called for. After considering the report of the officer, Government under section 18 may prescribe certain action. And if the Corporation thereafter does not carry out the orders of Government, then it may appoint some person to take action, fixing the remuneration to be paid to him and directing that such costs shall be defrayed out of the municipal funds. Well, Sir, all these require time. The question of the scavengers' strike cannot be dealt with in this manner. Now, the point is: how else can it be done.

Sir, I have been trying, so far as it lies in me and in the Department of Labour, to get into touch with these strikers. I am ready, Sir, if matters do not improve to appoint a committee of inquiry to go into the whole dispute, not merely on the question of increase in pay, of bribery and corruption; but I would like their entire service conditions to be looked into and put on a proper footing, so that, they may be treated with consideration, and as persons performing one of the most important functions connected with this city.

Sir, I would like it undoubtedly to be done, but before I do appoint such a committee of inquiry, I must be assured in my department that the scavengers are prepared to work. It is no use my appointing such a committee, if I am not assured that they will go back to work, if such a committee is appointed. That is the matter that for the last three or four days I have been working at. Meetings after meetings of the various parties have been held or are being held. The Commissioner of Police, Sir, on my behalf and on behalf of other departments of Government has been in touch with the leaders of the strikers in order to bring them to a proper frame of mind to make them go back to work if a committee is appointed. I can assure the House, Sir, that I am fully alive to the situation, so that an adjournment motion at this stage was not necessary. The situation, Sir, affects us all equally. If honourable members on the other side have smelt the smells of Calcutta and of the refuse that has accumulated in the streets, the honourable members of the Cabinet have not escaped it. (Laughter in Congress Benches.) This is not a matter, Sir, to which we can be impervious. It is almost axiomatic, and the honourable members ought to have understood it, that we will not allow ourselves to sleep over this matter. I certainly still hold the view that Government should not unduly interfere with the powers of an autonomous body (Cries of

"Hear, hear" from the Congress Benches) and I should be most loth to do it, particularly, Sir, as I feel sometimes in my conscience that perhaps I may be led by political prejudices to interfere with a body of a different political complexion from that of the Ministry. (Cheers from the Congress Benches.) That is one of the reasons which has kept me back from interfering with the Corporation, which would have shown up, which would have condemned, the administration of the Corporation by any precipitate action on the part of Government.

I hope, Sir, that honourable members on the other side will realize the difficulties in which we are placed; they will realize that we are mindful of the health and of the rights of the citizens of Calcutta. We are in touch with the situation; we are trying our level best to bring it under control; and the machinery at our disposal in the hope of bringing about an adjustment is moving so very smoothly that I hope that by to-morrow the strike will be at an end and the scavengers will have come back to work. I have every hope that this will be done. If, unfortunately, through some mischance this does not happen, if ~~for~~ instance, as was stated by Rai Keshab Chandra Banerjee Bahadur, it is possible that unscrupulous persons have got hold of the strikers, and who do not visualize the dangers to which they are plunging the entire city, then we shall have to take some drastic steps, and we shall see to it that the public services and the health services of the Corporation are managed more efficiently and properly and that the lives of the citizens are not endangered.

Mr. PRESIDENT: The question before the House is: that this House do adjourn its business to discuss a definite matter of urgent public importance and of recent occurrence, viz., failure of the Government to take proper and immediate steps to meet the situation created by the scavengers' strike and to prevent the outbreak of infectious diseases in the city of Calcutta and its outskirts which is imminent owing to the filthy condition of the town.

(The motion was negatived.)

Mr. PRESIDENT: The House will now resume further consideration of the Bengal Tenancy (Third Amendment) Bill, 1939.

Yes, Mr. Ormond.

The Bengal Tenancy (Third Amendment) Bill, 1939.

Mr. E. C. ORMOND: You will recollect, Sir, that the amendment now under discussion is to omit the words "(including a mortgage by conditional sale)" from sub-clause (*1*) of clause 3 of the Bill.

Now, Sir, the view that we on this side of the House take is, as already stated, that we object to retrospective effect. This clause is the amendment of sub-section (*1a*) of section 26G of the main Act, viz., the Bengal Tenancy Act of 1885, and that is a sub-section which imposes the retrospective effect. Some of the honourable members who have already spoken, apparently desirous of rejecting this amendment, did so because in doing so they put forward arguments to the effect that they did not consider that a mortgage by conditional sale ought to be allowed to be entered into for more than fifteen years. With that, Sir, it is not necessary at present to enter into any controversy, because, there is a separate clause in the Bill now before the House which will amply have the effect of achieving that result in future, and that is sub-clause (*2*) of clause 3, *i.e.*, the clause which will have the effect from the date of passing of this Bill to make it illegal for a mortgage by conditional sale to be entered into for more than 15 years. We, Sir, on this side of the House are not opposing that principle of legislation which underlies this Bill. But we are merely opposing the inclusion in the Bill of retrospective effect, and it is for those reasons, Sir, that we are in favour of this amendment so as to exclude mortgages by conditional sale from retrospective effect only. That will not alter the main effect of the Bill as to mortgages by conditional sale after the date when the Bill is passed.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, in this Bill Government have accepted the principle of giving retrospective effect to certain provisions, and, in fact, the amending Act of 1938 did give retrospective effect. It widens the scope of the Bill only to this small extent of including mortgages by conditional sale.

So, on these grounds, Sir, I oppose Mr. Ormond's suggestion.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I rise to oppose the motion, and in doing so, I would like to explain the position with regard to retrospective effect.

Sir, it is true that the sub-clause referred to will give retrospective effect to mortgages of this nature. I find from the speeches of the honourable members who have supported the motion as also of that of the spokesman of the European Group that they have no objection to the stoppage of this kind of mortgage for the future. They only object to retrospective effect being given to it. But, Sir, what is the object of giving retrospective effect? The real object is that in these kinds of mortgages the rate of interest charged is extremely heavy. So, it is in the interest of the *raiyats* that these kinds of mortgages should not be permitted. If that is so, Sir, if it is for the extortionate rate of interest that these kinds of mortgages should not be permitted in the

future, I think, Sir, it is only fair and reasonable that this extortionate rate of interest, about which they have made contracts in the past, should also be nullified as far as possible in order to minimize the effect of these contracts.

Sir, I would refer in this connection to the Banking Inquiry Committeee's Report, a copy of which I have now got with me to-day. It has been mentioned at page 198 of the report that loans to the agriculturists given on the security of their holdings generally bear interest from 18¾ per cent. to 37½ per cent.

Mr. E. C. ORMOND: On a point of order, Sir. In relation to this amendment which deals with mortgages by conditional sale, is a dissertation on interest relevant? There can be no interest in a mortgage by conditional sale. The position is that a mortgagor takes a loan and gets the profit and there is a specific amount mentioned in the deed on payment of which the mortgagor may get his land back. There is no question of interest.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is not usufruct of the land really interest in such cases?

Mr. PRESIDENT: Confine yourself to the amendment under discussion.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: I am going to show that these are also mortgages and these are also money-lending transactions. That cannot be denied. In a mortgage the usufruct of the land of an interest on which money is advanced. I have found that from 18¾ to 37½ per cent. is the interest for agriculturists who gave mortgage of their holdings at the usual rate and in another place it is mentioned that interest is higher when it is levied in kind. In this particular case, it is given in kind and the rate is much higher. The ordinary rate of interest on loans is either 25 or 100 per cent., but generally 50 per cent. So, it appears what an extortionate rate of interest is charged when usufruct of the land given in mortgage, is taken as interest. So, it is absolutely necessary that redress should be given to the agriculturists in respect of such mortgage transactions which have taken place previous to the passing of this Act, otherwise there would be great hardship on the agriculturists. One could say, as my friends of the European Group would say, they could get relief under the ordinary Money-lenders Act. But there is this difficulty—they will have to prove in that case that the interest has doubled the principal. In every such case, the agriculturists will have to prove what was the usufruct of the land in every particular year, but the land not being in his possession and the land being in

possession of the mortgagee it will be next to impossible for him to prove what he has got from the usufruct of the land and the creditor with his long purse will try to prove that he has not got even interest at 8 per cent. from the usufruct. For obviating this difficulty, the Legislature proposes to proceed in a rough-and-ready way so that substantial justice may be done in view of the general rate of interest prevailing in the country. On a reference to the rate of interest prevailing in the country the Legislature have found that a creditor if he gives money on mortgage and takes possession of the land he must have made sure that he was getting at least 7½ per cent. interest from the usufruct of the land because he knew that when the debtor would come with the principal and ask for the return of the land he would be bound to give it back within the period of his lease. So, I say that though within 6 years the principal would be doubled from the usufruct of the land, yet some amount of margin has been given and the Legislature have made it definite that 15 years will be the maximum; 15 years or whatever is written in the terms of the lease, whichever is less, will be the period within which both the principal and the interest will be considered to have been extinguished. That is the position. If usury is a bad thing, should not we see that the evil effect of that bad thing is minimised as far as possible? With this object in view this sub-section has been put in the Bill. I will appeal to the members of the European Group to consider the points that I have raised, and I will, also ask them to remove the impression that is gaining ground in the countryside that the European members of the Legislature in a body are the supporters of the Shylocks of Bengal and would allow the latter to have their pound of flesh from the region of the hearts of the agriculturists. If they are not prepared to go behind the contract, they would have to allow the Shylocks to have the pound of flesh from the region of the hearts of the agriculturists of Bengal.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) of clause 3 of the Bill the words and brackets "(including a mortgage by conditional sale)" in lines 2 to 3, be deleted.

(The amendment was negatived.)

Khan Bahadur M. SHAMSUZZOHA: Before I move amendment No. 19 with your permission I want to move two other amendments, namely, 18A and 18B. The whole purpose of——

Mr. PRESIDENT: Order, order. I have not yet received the notice of these amendments.

Khan Bahadur M. SHAMSUZZOHA: They are more or less of a consequential nature.

Mr. PRESIDENT: I shall allow you to move these amendments if the House has no objection.

Mr. RANAJIT PAL CHOUDHURY: Sir, we have not yet got notice of these amendments.

Mr. PRESIDENT: As there is no objection, you may move your amendments.

Khan Bahadur M. SHAMSUZZOHA: I beg to move that in sub-clause (*5*) of clause 3 of the Bill the words "or to a Revenue Officer" in line 7 and the words "or the Revenue Officer" in line 10 be omitted.

I also beg to move that for sub-clause (*4*) of clause 3 the following shall be substituted, namely:—

"(*4*) in sub-section (*6*)—

(*a*) for the words 'or Revenue Officer to whom' the words 'to which' be substituted, and

(*b*) for the words beginning with 'in respect of the period' and ending with 'decree of a Civil Court' the words 'and may pass an order restoring possession of the mortgaged property to the mortgagor' be substituted; and"

The whole object of these amendments is to omit the words "Revenue Officer" or the reference to Revenue Officer in section 26G from the Act itself because in 1928 for the first time the Revenue Officer or the Civil Court was given power to decide questions as referred to in sub-section (5) of section 26G with respect to the enquiry, as to whether the mortgage has been extinguished by 15 years' possession or not. Now, the intention is to divest altogether the Revenue Officer from the authority which was given to him by the Act of 1928.

Mr. PRESIDENT: Amendment moved: that in sub-section (*3*) of clause 3 of the Bill the words "or to a Revenue Officer" in line 7 and the words "or the Revenue Officer" in line 10 be omitted.

That for sub-clause (*4*) of clause 3 the following shall be substituted, namely:—

"(*4*) in sub-section (*6*)—

(*a*) for the words 'or Revenue Officer to whom' the words 'to which' shall be substituted, and

(*b*) for the words beginning with 'in respect of the period' and ending with 'decree of a Civil Court' the words 'and may pass an order restoring possession of the mortgaged property to the mortgagor' shall be substituted; and"

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: It is very difficult to follow the amendment. There are so many of them.

Mr. PRESIDENT: I shall read one after the other. Let me put the first amendment which is a very simple one—

"That in sub-clause (*3*) of clause 3 of the Bill the words 'or to a Revenue Officer' in line 7 and the words 'or the Revenue Officer' in line 10 be omitted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Government are prepared to accept the amendments.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*3*) of clause 3 of the Bill, the words "or to a Revenue Officer" in line 7 and the words "or the Revenue Officer" in line 10, be omitted.

(The amendment was agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, Government are prepared to accept both these amendments, viz., 18A and 18B.

Mr. PRESIDENT: One has been accepted already.

The question before the House is: that for sub-clause (*4*) of clause 3 the following shall be substituted, namely:—

(*a*) for the words "or Revenue Officer to whom" the words 'to which' shall be substituted, and

(*b*) for the words beginning with "in respect of the period" and ending with "decree of a Civil Court" the words "and may pass an order restoring possession of the mortgaged property to the mortgagor" shall be substituted.

(The motion was agreed to.)

Mr. PRESIDENT: Will you now move your amendment No. 19 Khan Bahadur?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I draw your attention, Sir, to one point? There is one amendment, viz., No. 17, which the Khan Bahadur wanted to move, but he did not move it.

Khan Bahadur M. SHAMSUZZOHA: May I be permitted to move it now, Sir?

Mr. PRESIDENT: Order, order. As regards amendment No. 17, Khan Bahadur Shamsuzzoha was not willing to move it under some misapprehension. Now he desires the permission of the Chair to move that amendment. If there is no objection, I would permit him.

(No objection being taken, the Khan Bahadur was permitted to move it.)

Khan Bahadur M. SHAMSUZZOHA: Sir, I beg to move this amendment No. 17, with certain modifications because the first amendment in my name was declared out of order. So, Sir, some modifications are necessary.

Rai Sahib INDU BHUSAN SARKER: Sir, we have not got a copy of this amended amendment. It would be better, Sir, if this be placed to-morrow before the House for discussion.

Khan Bahadur M. SHAMSUZZOHA: Sir, the matter is a simple one and I shall make it clear.

Mr. PRESIDENT: If the honourable members cannot follow it in the absence of a copy, it is no use your making it clear.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, under the circumstances, the best course would be to get a copy first and in the meantime to get on with other things.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, in view of the objection taken, I suggest that this amendment stand over till to-morrow for discussion so that in the meantime copies of the same may be circulated to the members.

Mr. PRESIDENT: Then move No. 19, Khan Bahadur.

Mr. MESBAHUDDIN AHMED: This also may stand over, Sir.

Mr. PRESIDENT: This is a printed amendment and there will be no difficulty for the members to follow it. Do you, Khan Bahadur, propose to move it as it is?

Khan Bahadur M. SHAMSUZZOHA: Yes, Sir, but with the Explanation left out.

Mr. PRESIDENT: In that case, it will have to be circulated and discussion can take place only to-morrow.

Do you move your amendment No. 20, Khan Bahadur Saiyed Muazzamuddin Hosain?

Khan Bahadur MUAZZAMUDDIN HOSAIN: It is dependent on amendment No. 19.

Mr. PRESIDENT: So this is also postponed till to-morrow. What about No. 21, Khan Bahadur?

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, 21, 26, 43 and 51 are all consequential and are of the same nature. They seek to remove the new sub-sections added by the Select Committee, viz., sub clauses (*10*), (*11*), (*12*), (*13*) and (*15*) of clause 3.

Mr. PRESIDENT: Order, order. They will be taken up to-morrow. In the meantime, the notices of Khan Bahadur M. Shamsuzzoha, as now revised, should be circulated to all members. As regards the meeting to-morrow, a suggestion has been made to me that the Council should meet in the morning.

I take it that copies of these two amendments, viz., Nos. 17 and 19, of Khan Bahadur M. Shamsuzzoha will be laid on the desks of the members. The honourable members will please come a little earlier and go through them. It is proposed that the House should meet to-morrow in the morning at 9 a.m. so that if we can finish our work, the Bill, as settled in the Council, might be placed before the other House. The other House is practically waiting for this.

Mr. H. C. A. HUNTER: Would you kindly give the House some indication of the time up to which we are going to sit to-morrow?

Mr. PRESIDENT: For two hours from 9 to 11 a.m.

Rai Sahib INDU BHUSAN SARKER: If the work is not finished, are we to sit in the afternoon also?

Mr. PRESIDENT: It will be considered then. Order, order. The House stands adjourned till 9 a.m. on Tuesday, the 2nd April.

Adjournment.

The Council then adjourned till 9 a.m. on Tuesday, the 2nd April, 1940.

Members absent:

The following members were absent from the meeting held on the 1st April, 1940:—

(1) Mr. Kader Baksh.
(2) Mr. Humayun Reza Chowdhury.
(3) Mr. Narendra Chandra Datta.
(4) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(5) Nawabzada Kamruddin Haider.
(6) Mr. Mohamed Hossain.
(7) Khan Bahadur Syed Muhammad Ghaziul Huq.
(8) Maulana Muhammad Akram Khan.
(9) Mr. H. G. G. MacKay.
(10) Mr. Naresh Nath Mookerjee.
(11) Dr. Radha Kumud Mookerjee.
(12) Rai Sahib Jatindra Mohan Sen.
(13) Khan Bahadur S. Fazal Ellahi.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Buildings, Calcutta, on Tuesday, the 2nd April, 1940, at 9 a.m. being the nineteenth day of the First Session, pursuant to section 62 (2) (a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Hostel for Hindu Students of Chittagong College.

89. Mr. LALIT CHANDRA DAS: (a) Will the Hon'ble Minister in charge of the Education Department be pleased to state the total number of students at present in the Chittagong College? How many of them are Hindus and how many Muhammadans?

(b) Is there any hostel for accommodation of the college Moslem students? If so, how many are accommodated in that hostel?

(c) Of the Hindu students studying in the Chittagong College, how many are living with their parents or other guardians and how many are living in messes?

(d) Is there any hostel attached to the college for the Hindu students studying in that college?

(e) Is the Government aware that public opinion in Chittagong has been insistently demanding a hostel for accommodation of Hindu students of the Chittagong College?

(f) Was there any such college hostel for the Hindu students in the town of Chittagong? If so, what has become of it?

(g) Does the Government propose to provide accommodation for the Hindu college students of the Chittagong College in a hostel sufficient to accommodate them? If not, why not?

The Hon'ble Mr. PRASANNA DEB RAIKUT: Sir, may I have your permission to read the answers to this question, on behalf of the Hon'ble Mr. A. K. Fazlul Huq?

Mr. PRESIDENT: Yes.

The Hon'ble Mr. PRASANNA DEB RAIKUT (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): (a) 713. Hindus—390. Muslim—295.

(*b*) Yes. 45.

(*c*) There is no authorised mess attached to the college for the residence of Hindu students. Most of them live with their parents or guardians.

(*d*) No.

(*e*) Some opinion has been expressed in favour of a hostel for Hindu students, but my own view is that the demand is not strong. Ordinarily, Hindu Students do not favour living in hostels; I have numerous instances of this mentality.

(*f*) Yes, on account of dearth of boarders and unsuitability of the building, the hostel was closed down, and is now used for holding classes.

(*g*) Yes, the Principal has been instructed to start a hostel in a suitable rented house as soon as there is a reasonable demand.

Mr. LALIT CHANDRA DAS: Sir, to put supplementary questions, I require the presence of the Chief Minister. The Chief Minister has, in reply (*e*), given his own view and I want to put questions regarding that view. So, Sir, I request that I may be permitted to put supplementary questions on this to the Chief Minister when he turns up, if not in this session at least in the next session?

Mr. PRESIDENT: You put your supplementary questions. Let me ascertain if the Hon'ble Mr. Raikut is in a position to reply to them.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state how the view of the Hon'ble Mr. A. K. Fazlul Huq could be to the effect that "the demand for a hostel is not strong" on the face of the fact that we know there is an insistent demand in Chittagong for a hostel for the Hindu students?

The Hon'ble Mr. PRASANNA DEB RAIKUT: The information of Government is that there is no insistent demand for such a hostel.

Mr. LALIT CHANDRA DAS: In the answer (*g*) it is stated, "The Principal has been instructed to start a hostel in a suitable rented house as soon as there is a reasonable demand". Will the Hon'ble Minister be pleased to state what is meant by "reasonable demand" so that there may not be any loop-hole for evading the question of having a hostel for the Hindu students of the Chittagong College?

The Hon'ble Mr. PRASANNA DEB RAIKUT: Sir, the answer is quite clear that there will be a hostel for the accommodation of the Hindu students.

Mr. LALIT CHANDRA DAS: Can the Hon'ble Minister give us an indication as to what are the standards that will be adopted by them to know that the demand is a reasonable one, because answer (*g*) is not absolute there being a rider to the effect that "the Principal has been instructed to start a hostel as soon as there is a reasonable demand".

The Hon'ble Mr. PRASANNA DEB RAIKUT: Public opinion will be considered.

Mr. LALIT CHANDRA DAS: But the public opinion is there as will appear from answer (*e*), viz., "some opinion has been expressed in favour of a hostel for the Hindu students".

The Hon'ble Mr. PRASANNA DEB RAIKUT: Government does not consider it sufficient.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister take out from answer (*g*) the rider, "as soon as there is a reasonable demand", so that there may not be any loop-hole left for evading the provision of a hostel for the Hindu students of the Chittagong College?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: On a point of order, Sir. Is the honourable member entitled to argue like this? He asked for certain information and Government gave them. It is for him to accept or reject them. He may have his own views but can he make it binding on Government by asking Government to remove a portion given in their answer?

Mr. LALIT CHANDRA DAS: The Hon'ble Minister is evading my question, Sir. The Chief Minister should have been here but is not. He is the only competent person to answer my question based on the view expressed by him in answer (*c*).

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I repudiate the suggestion, Sir, for the reason that any opinion expressed by him in an answer to a question is not to be construed as his personal opinion but as the opinion of the Government as a whole.

Mr. LALIT CHANDRA DAS: I want to put questions about the opinion expressed by the Education Minister himself which, if you read answer (*e*), Sir, you will find.

The Hon'ble Mr. PRASANNA DEB RAIKUT: That is the opinion of Government.

The Bengal Sanskrit Association.

90. Rai KESHAB CHANDRA BANERJEE Bahadur: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether any orders have been passed by Government on the report of the Committee appointed by them in 1936 to enquire into the affairs of the Bengal Sanskrit Association?

(*b*) If the reply is in the negative, will the Hon'ble Minister be pleased to state when such orders may be expected and why so long a time is being taken in coming to a decision on such a matter of vital importance to Hindu culture in Bengal?

(*c*) If the reply to paragraph (*a*) is in the affirmative, will the Hon'ble Minister be pleased to state what steps have been taken or are being taken to give effect to the orders of the Government at a very early date? Will such orders be given effect to from the 1st April, 1940? If not, why not?

(*d*) Is it not possible to give full effect to the same from the 1st April, 1940? If so, will the Hon'ble Minister be pleased to state why even partial effect cannot be given to them immediately to indicate the same earnestness of Government in the matter of Sanskrit learning and Hindu culture as in that of Islamic studies and culture?

(*e*) Will the Hon'ble Minister be pleased to state whether it is a fact that the members of the present Council of the Bengal Sanskrit Association did not get any opportunity to meet and transact any business of the Association before the 17th February, 1940? If so, does the Government propose to extend the life of the Council for a further term with effect from the 1st April, 1940, and postpone the impending elections accordingly?

(*f*) Will the Hon'ble Minister be pleased to state why no meeting of the Council of the Bengal Sanskrit Association was convened before the 17th February, 1940? Did the Secretary of the Association want to carry on its administration during the temporary absence of the President with the co-operation of the members of the Council by means of circular letters without calling any meeting? If so, why was this arrangement cancelled and the Secretary of the Association empowered by Government to carry on the administration without consulting the members of the Council?

(*g*) Will the Hon'ble Minister be pleased to lay on the table a copy of the report of the Committee of enquiry referred to in paragraph (*a*) above?

(*h*) Will the Hon'ble Minister be pleased to state if it is a fact that the Secretary of the Bengal Sanskrit Association was instructed by the Director of Public Instruction not to call any meeting of the

Council of the Association in the absence of the permanent President who had previously resigned and until a successor was appointed, on the ground that the holding of any meeting of the Council under such circumstances would be irregular and the proceedings thereof would be invalid, but to exercise the powers himself which are in fact exercisable only by the members of the Council at a meeting?

(*i*) If the reply is in the affirmative, under what rule or convention would a meeting of the Association be inoperative in the temporary absence of the President even if there was quorum and the business of the meeting was transacted with one of the members elected to preside on that particular occasion, as is generally done in similar cases by other public bodies and Associations?

(*j*) With reference to reply (*c*) to question No. 65 asked in the Bengal Legislative Council by Rai Bahadur Brojendra Mohan Maitra on the 13th December, 1939, will the Hon'ble Minister be pleased to place in the Library a copy of the letter in which Sir Manmatha Nath Mukherjee was requested to withdraw his resignation of the office of President of the Bengal Sanskrit Association?

The Hon'ble Mr. PRASANNA DEB RAIKUT (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): (*a*) to (*d*) A scheme has been prepared on the lines of the report which awaits provision of funds.

(*e*) It is a fact that the first meeting of the present Council was held on the 17th February, 1940. Government does not propose to extend the life of the present Council.

(*f*) Because there was no President. The President having resigned at a time when immediate action should have been taken on certain matters, viz., fixation of dates for Sanskrit Examinations, distribution of grants, etc., the Secretary was permitted as a temporary measure to carry on the routine business of the Association.

(*g*) It is not proposed to give publicity to the report.

(*h*) Not exactly. As many members of the Council were unwilling to attend any meeting in the absence of a President, the Secretary was permitted to carry on without summoning the Council. It was then thought that this arrangement would last only a short while.

(*i*) Does not arise.

(*j*) There was no official correspondence on this matter.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, my objection is——

Mr. PRESIDENT: There cannot be any question of objection here. You have put your question.

The Hon'ble Mr. PRASANNA DEB RAIKUT: May I have your permission, Sir, to act on behalf of the Minister in charge, the Hon'ble Mr. A. K. Fazlul Huq?

Mr. PRESIDENT: Yes.

Rai KESHAB CHANDRA BANERJEE Bahadur: Arising out of the answers from (*a*) to (*d*), will the Hon'ble Minister be pleased to state what is the amount required to give effect to the scheme?

The Hon'ble Mr. PRASANNA DEB RAIKUT: I ask for notice, Sir. I cannot give him the amount.

Rai KESHAB CHANDRA BANERJEE Bahadur: Will the Hon'ble Minister be pleased to state why no funds have been provided for this in the current year's budget?

The Hon'ble Mr. PRASANNA DEB RAIKUT: When required, funds will be provided for.

Rai KESHAB CHANDRA BANERJEE Bahadur: Are we then to understand that the necessary provision of funds will be made in the Supplementary Budget for this year?

The Hon'ble Mr. PRASANNA DEB RAIKUT: Yes, Sir, if it is required.

Rai KESHAB CHANDRA BANERJEE Bahadur: We want a definite answer, whether provision of funds will be made or not, in the Supplementary Budget for the year?

Mr. PRESIDENT: In case of necessity they will find the money. If it is necessary, they will even ask for supplementary grants.

Rai KESHAB CHANDRA BANERJEE Bahadur: Arising out of answer (*f*), will the Hon'ble Minister be pleased to state when did the President of the Bengal Sanskrit Association resign? What is the date of his resignation?

The Hon'ble Mr. PRASANNA DEB RAIKUT: I want notice.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, not a single question is being properly answered in the absence of the Education Minister. We are practically deprived of the privilege of putting supplementaries and eliciting information from Government.

Mr. LALIT CHANDRA DAS: On a point of privilege, Sir. If the Minister concerned is absent, we are not in a position to put our supplementaries. If this continues we will be under the painful necessity of moving an adjournment motion to compel the Minister in charge to be present.

Mr. PRESIDENT: There is no question of privilege in this matter. If any honourable member feels aggrieved, certainly he has the remedy and the Chair will decide the matter when such a notice is received. It is no use suggesting it on a point of privilege.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, these questions are being answered nearly a month after and Government should have taken steps to see that replies are properly given and that the members are not deprived of the right of putting supplementary questions. The object of putting supplementaries is to elicit further information and I think the Government are not discharging their obligations honestly.

Mr. PRESIDENT: Is it your complaint that the questions have not been answered? They have been answered. If there is a supplementary question and the Hon'ble Minister is not in a position to answer immediately, he can demand notice. If you considered any supplementary question to be very important, or rather the answer to it as very important, then it should have been specifically included in the question.

Rai KESHAB CHANDRA BANERJEE Bahadur: My point is this, Sir, that had the Hon'ble Minister in charge of the Education Department been present to-day, we would have got answers to all the supplementary questions put by us. The answers to most of the original questions being evasive, the necessity has arisen for asking supplementaries.

The Hon'ble Mr. PRASANNA DEB RAIKUT: Certainly not evasive. He wanted to know the date of resignation of the Principal, for which I wanted notice.

Mr. PRESIDENT: As I read the answers, I see there is no intention of evading the questions. It is certainly true that had the Education Minister been present here to-day, he might have been in a better position to answer the questions, but that is no reason to construe that the answers are evasive.

Rai KESHAB CHANDRA BANERJEE Bahadur: The Hon'ble Minister in his reply to my supplementary question could not give the date.

Mr. PRESIDENT: You want the particular date?

Rai KESHAB CHANDRA BANERJEE Bahadur: Yes, Sir, the date and the reasons and on the reply to them more supplementary questions would be put.

Mr. PRESIDENT: Because it arises out of a particular question, I permitted you to put supplementary question. But the information about a particular date and the detailed reasons for the resignation of the President of the Sanskrit Association it may not be possible for the Hon'ble Minister to carry in his head.

Rai KESHAB CHANDRA BANERJEE Bahadur: The Hon'ble Minister should be ready with the file to answer the questions arising out of the answers to the original question.

Arising out of (*f*), will the Hon'ble Minister be plesed to state when was the examination held?

The Hon'ble Mr. PRASANNA DEB RAIKUT: I want notice.

Rai KESHAB CHANDRA BANERJEE Bahadur: When does the distribution of grants generally take place?

The Hon'ble Mr. PRASANNA DEB RAIKUT: I want notice.

Mr. RANAJIT PAL CHOWDHURY: May I respectfully submit that our supplementary questions are not being answered as they should be. May I suggest that the supplementary questions which concern a particular Minister who is absent be postponed till he arrives? Otherwise, this House would be very much handicapped in putting supplementary questions.

Mr. PRESIDENT: Member after member are raising the same objection about putting supplementary questions. I may tell the House that this particular Department (Education) is in charge of the Chief Minister who is very much engrossed with other duties as well and cannot often attend the Council. So, for the future I have arranged that I shall fix the first date of the week for all questions concerning this department to be answered and I would expect the Premier to be present on that date. I have got that assurance from the department.

Rai KESHAB CHANDRA BANERJEE Bahadur: With reference to answer (*g*), will the Hon'ble Minister be pleased to state why Government do not propose to give publicity to the report?

The Hon'ble Mr. PRASANNA DEB RAIKUT: Because it is not in the interest of the public.

Rai KESHAB CHANDRA BANERJEE Bahadur: In what way?

The Hon'ble Mr. PRASANNA DEB RAIKUT: That would be giving out secrets.

Rai KESHAB CHANDRA BANERJEE Bahadur: Is it not a fact that a Committee of Enquiry was appointed by the Government at the instance of the Brahmin Pandits in whose interest the Association exists and in that view of the case the report should be published in order to enable the public and the Pandits to place their own views on it?

Mr. PRESIDENT: That is a matter of opinion. Government have the absolute right to decide whether it is in the public interest to publish the report or not. If they do not publish it, we cannot force them to do so. However, as regards this question I shall allow you to put supplementary questions on it next session.

Mr. HUMAYUN KABIR: Are the findings of this report so uncomplimentary to the administration of the department that the Government do not find it possible to publish the report?

The Hon'ble Mr. PRASANNA DEB RAIKUT: No, Sir.

Mr. PRESIDENT: As I have already told you, I will allow you to put supplementary questions next session, if you want to pursue this matter further.

Rai KESHAB CHANDRA BANERJEE Bahadur: There are other questions also to be asked.

Mr. PRESIDENT: They are not in your name; they are in the name of other honourable members.

The Hon'ble Mr. H. S. SUHRAWRDY: I am prepared to lay bet that when the Chief Minister will be here no supplementary question will be asked.

Rai KESHAB CHANDRA BANERJEE Bahadur: May I be permitted, Sir, to put one or two more supplementary questions?

Mr. PRESIDENT: Order, order. When I have given you the right to put supplementary questions at the next session, I think you should postpone your supplementary questions now in the absence of the Minister in charge of the department.

The Bengal Sanskrit Association.

91. Rai BROJENDRA MOHAN MAITRA Bahadur: Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*a*) the name of the Principal of the Sanskrit College, Calcutta;

(*b*) the date of his appointment to that post;

(*c*) the salary and allowances, if any, he is drawing at present;

(*d*) the date of his retirement from Government service;

(*e*) whether the post is transferable;

(*f*) what is the normal period after which the transfer of a Principal of a Government College generally takes place;

(*g*) if his transfer under the Government rules is overdue;

(*h*) if so, why he is being still retained in charge of the Sanskrit College;

(*i*) whether he is the *ex-officio* Secretary of the Bengal Sanskrit Association;

(*j*) whether it is a fact that the function of Principal and Secretary of two important institutions prevents him from doing justice to his work;

(*k*) whether there have been any complaints of maladministration and nepotism against him in regard to the affairs of the Bengal Sanskrit Association;

(*l*) whether such repeated complaints, if any, led to the appointment by Government of a Committee of Enquiry in December, 1936, and whether the evidence recorded by the Committee was conclusive and the majority of the witnesses examined urged separation of the two offices of Principal of the Sanskrit College and Secretary of the Bengal Sanskrit Association as the only means to end the present unsatisfactory state of things;

(*m*) what is the constitution of the Bengal Sanskrit Association;

(*n*) the total number of members of the Central Organisation of the Association and the system of representation thereon;

(*o*) the number of members of the Council of the Association;

(*p*) how many members are elected and how many appointed by Government to the Association and to the Council;

(*q*) what are the terms of office of the members of the Central Organisation and of the Council;

(*r*) whether it is a fact that one of the Hon'ble Ministers has been appointed by the Government to be a member of the Bengal Sanskrit Association and of its Council;

(*s*) on what principle is a member of the Cabinet nominated to this democratic body in preference to an outsider a patron of Sanskrit learning?

The Hon'ble Mr. PRASANNA DEB RAIKUT (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): (*a*) Dr. Surendra Nath Das Gupta, I.E.S.

(*b*) 1st April, 1931.

(*c*) Rs. 1,500 plus a special pay of Rs. 150 per month.

(*d*) He is due to retire on 16th October, 1942, when he will attain the age of superannuation.

(*e*) The present incumbent of the post is liable to transfer.

(*f*) There is no rule about the transfer of Principals of Government Colleges.

(*g*) and (*h*) Do not arise.

(*i*) Yes.

(*j*) No.

(*k*) There have been some complaints.

(*l*) No. The Committee was appointed to enquire into and report upon (1) control and organisation of the Bengal Sanskrit Association, (2) its jurisdiction and (3) its examination system. The majority of the members were in favour of the separation of the Association from the Sanskrit College.

(*m*) to (*p*) The Bengal Sanskrit Association has been constituted with a Central Organisation consisting of 91 members and a Council of 10 members excluding the President and the Secretary who are *ex-officio* members. Of the 91 members of the Organisation, 39 are elected by *tol* pandits, 21 by local samajes, 1 by the *tol* teachers of Sanskrit College, 8 by distinguished bodies interested in Sanskrit learning, 2 by the Universities of Calcutta and Dacca and 20 are

nominated by Government. Of the 10 members of the Council, 6 are elected by the members of the Organisation and 4 nominated by Government.

(*q*) Three years for the Organisation and one year for the Council.

(*r*) Yes.

(*s*) He was nominated to the Association because of his interest in Sanskrit learning.

Rai KESHAB CHANDRA BANERJEE Bahadur: Arising out of (*k*), Government have admitted there have been complaints of mal-administration and nepotism, so far as the present Secretary of the Bengal Sanskrit Association is concerned. In that view of the case, will the Hon'ble Minister be pleased to state why steps have not been taken to remedy the present state of affairs and why the same gentleman is being retained in charge of the Association?

The Hon'ble Mr. PRASANNA DEB RAIKUT: Government thought that it was not necessary to take any action.

Rai KESHAB CHANDRA BANERJEE Bahadur: Are we to understand that in spite of complaints against the Secretary of the Association, no steps are considered necessary by the Government—not even of transferring him?

Mr. PRESIDENT: The answer of the Government is that there were complaints but they were never proved. Government never said that the allegations were true.

Rai KESHAB CHANDRA BANERJEE Bahadur: With reference to answers (*m*) to (*p*), will the Hon'ble Minister be pleased to state whether it is a fact that the President of the Sanskrit Association has not sent up any names for the nomination of members to constitute the new Council of the Sanskrit Association and is it also a fact that in spite of the President's refusal to do so the Secretary took upon himself the responsibility of nominating members to the Council of the Sanskrit Association?

The Hon'ble Mr. PRASANNA DEB RAIKUT: He should put the questions separately.

Rai KESHAB CHANDRA BANERJEE Bahadur: Is it a fact that the President of the Sanskrit Association has not, following the previous procedure, sent up any name for the appointment of members of the Council of the Bengal Sanskrit Association?

The Hon'ble Mr. PRASANNA DEB RAIKUT: It is not a fact.

Rai KESHAB CHANDRA BANERJEE Bahadur: Is it a fact that nominations have been sent up to Government recently by the Secretary on his own initiative and not by the President as heretofore?

The Hon'ble Mr. PRASANNA DEB RAIKUT: I want notice.

Rai KESHAB CHANDRA BANERJEE Bahadur: Over whose signature the nominations have been forwarded?

The Hon'ble Mr. PRASANNA DEB RAIKUT: I want notice.

Mr. RANAJIT PAL CHOWDHURY: May I submit that this question be postponed till the Hon'ble Minister in charge is here, because we feel very much embarrassed and we are not satisfied with the replies.

Mr. PRESIDENT: That is quite correct, but at the same time the honourable members should make their questions as exhaustive as possible. Supplementary questions may arise only out of the answers given. If you want any particular information, why do you not specifically put the matter in the question itself? If you ask for any information on any new facts, that is really not a matter for a supplementary question.

Rai KESHAB CHANDRA BANERJEE Bahadur: But, Sir, we may ask some more pertinent questions which arise out of the answers given by the Hon'ble Minister. Will you allow these questions also to be asked at the next session?

Mr. PRESIDENT: What is the difficulty in giving notices of fresh questions? There will be enough time to give adequate notice of questions when the House meets again for the Autumn Session.

Mr. HUMAYUN KABIR: I have only one submission, viz., if the department will give elaborate reply. Generally, what happens is that elaborate questions are sent and the reply usually is that Government are taking steps to get the information.

Mr. LALIT CHANDRA DAS: Arising out of (*f*), will the Hon'ble Minister be pleased to state whether interest in the Sanskrit Association is a sufficient ground for nominating a Cabinet Minister as a member of the Council as well as of the Association?

The Hon'ble Mr. PRASANNA DEB RAIKUT: He was not appointed because he was a Minister, but he was appointed in the interest of Sanskrit learning.

Mr. LALIT CHANDRA DAS: With reference to question (*s*) and its reply, will the Hon'ble Minister be pleased to state whether interest in Sanskrit learning is a sufficient ground for a Cabinet Minister to be a member of the Council——

Mr. PRESIDENT: Order, order. The answer was that he was nominated not because he was a Cabinet Minister, but because he was interested in Sanskrit learning. It is no use pursuing a question like this.

Mr. LALIT CHANDRA DAS: What is the name of the Cabinet Minister?

The Hon'ble Mr. H. S. SUHRAWARDY: The questioner must know the name since he has put this question.

The Hon'ble Mr. PRASANNA DEB RAIKUT: The Maharaja of Cossimbazar.

Mr. AMULYADHONE ROY: Has the Hon'ble Minister got any Sanskrit learning?

Mr. PRESIDENT: That question is out of order.

Labour Welfare Fund.

92. **Mr. KRISHNA CHANDRA ROY CHOWDHURY:** (*a*) Is the Hon'ble Minister in charge of the Commerce and Labour Department aware that there is a fund known as Labour Welfare Fund to help the genuine trade unions?

(*b*) On what basis are the trade unions helped from this fund?

(*c*) How many trade unions applied to the Government for help from this fund in the years 1938 and 1939?

(*d*) What are the names of those trade unions?

(*e*) Which of them got help from this fund in 1938 and 1939?

(*f*) How many pending cases are there?

MINISTER in charge of the COMMERCE and LABOUR DEPARTMENT (the Hon'ble Mr. H. S. Suhrawardy): (*c*) The fund is not intended for direct help to trade unions, but for general labour welfare work.

(*b*) Does not arise.

(*c*) I am aware of only two such applications.

(*d*) Calcutta Dock Mazdoor Union in 1938, Press Employees' Association in 1939.

(*e*) None.

(*f*) The Press Employees' Association's application was pending. The Association was given a grant in March, 1940.

Mr. HUMAYUN KABIR: Arising out of answer (*b*), will the Hon'ble Minister be pleased to state what is the principle on which such funds are allotted?

The Hon'ble Mr. H. S. SUHRAWARDY: The principle is that Government must be satisfied that the funds are to be utilised for the welfare of Labour.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state what are primarily the types of labour welfare work for which funds are allotted?

The Hon'ble Mr. H. S. SUHRAWARDY: Education, medical treatment, libraries—these are the three main items.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state if any records are kept by the Government, or if any figures are demanded from the trade unions to whom such funds are allotted for educational and medical relief work?

The Hon'ble Mr. H. S. SUHRAWARDY: Yes, inquiries are made before the funds are allotted and the inquiries that are made are very detailed in their nature.

Khan Sahib ABDUL HAMID CHOWDHURY: With reference to answer (*e*), will the Hon'ble Minister assign the reason why none of the applications have been favourably considered?

The Hon'ble Mr. H. S. SUHRAWARDY: The application of the Press Employees' Association has been favourably considered and they have got their grant.

Cost of litigation.

93. Mr. H. P. PODDAR: Will the Hon'ble Minister in charge of the Judicial Department be pleased to state—

(*a*) whether the attention of the Government has been drawn to the remarks made by Mr. Justice Toric Ameer Ali regarding prohibitive costs of litigation in the Original Side of the Calcutta High Court and the severe hardships caused to the litigant public, specially the poorer ones;

(*b*) whether the Government is aware that a large number of poor people cannot agitate their rightful causes for the exorbitant costs of litigation in the Original Side of the Calcutta High Court and that most parties litigating in the said Original Side have been ruined because of such prohibitive costs;

(*c*) whether the attention of the Government has been drawn to the exorbitant costs charged for executing a decree in the Original Side of the Calcutta High Court such as—

(*i*) an initial cost of Rs. 110 has to be deposited in the Sheriff's Office before a writ of execution is issued, the initial cost has been raised from Rs. 25 to Rs. 110 from September, 1939; and

(*ii*) a poundage of 5 per cent. is charged on the first Rs. 1,000 and 2½ per cent. on anything above;

(*d*) whether the Government propose to represent to the Calcutta High Court that the Sheriff's fees should be reduced to an eighth of his present charges;

(*e*)(*i*) whether the Government is aware that an exorbitant fee of ten annas per 90 words for deposition and a hearing fee of Rs. 30 per day of hearing are charged in each case that comes up for hearing in the Original Side of the Calcutta High Court;

(*ii*) why such fees are charged when paid officers of the Court are there to perform these functions and thus rendering it impossible for a poor person to have recourse to the Calcutta High Court, Original Side;

(*f*) whether the Government is aware that in a contested suit for Rs. 3,000 in the Calcutta High Court, Original Side, if the hearing goes on for more than one day, over and above the Court fees, the deposition and hearing fees will amount to about Rs. 400, the Attorney's and Counsel's fees to about Rs. 250;

(*g*) whether the Government is aware that the costs of an application in the Original Side of the Calcutta High Court will be about Rs. 150, and

(*h*) whether the Government proposes to impress upon the Calcutta High Court to make a substantial reduction, at least to a fourth, in all the above charges by amendment of the rules?

MINISTER in charge of the JUDICIAL and LEGISLATIVE DEPARTMENT (the Hon'ble Nawab Musharruff Hossain, Khan Bahadur): (*a*) No.

(*b*) No.

(*c*)(*i*) No.

(*ii*) Poundage is payable only on sums realised in execution.

(*d*) The Sherrif's fees have been recently revised along with the other fees payable under the Original Side Rules with effect from the 15th November, 1939, as stated in answer to clause (*b*) above. The Sheriff maintains an establishment at his own cost. If the fees have to be reduced as suggested, any deficit in the cost of the establishment will have to be borne out of the revenues.

(*e*)(*i*) The fees stated are correct except that such fees are not charged if the suit filed is on a mortgage in which the total sum due for principal does not exceed Rs. 4,000.

The fee of Rs. 30 is charged for a day of hearing after the first day's hearing and if the judgment is reserved this fee is not charged on the day when judgment is delivered. The Court sometimes directs a day not to be treated as a date of hearing where the circumstances warrant such direction.

(*ii*) The fees charged are realised in stamps and are not payable to officers personally who are paid salaries from the revenues. These fees help to pay for the running of the Court.

(*f*) No.

(*g*) No.

(*h*) No.

Mr. E. C. ORMOND: Is the Hon'ble Minister aware that on the budget figures, administration of justice in Bengal shows a profit of close upon a crore of rupees and that on the figures given in the Report of the Administration of Justice in Bengal for the year 1938 the profit on the running of the High Court itself, apart from the mufassil courts, is in the region of 50 lakhs of rupees? Is the Hon'ble Minister aware of these figures?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: The figures are correct if they have been published.

Mr. E. C. ORMOND: Is the Hon'ble Minister prepared to give any explanation in view of that enormous profit why the Hon'ble Judges of the High Court are compelled to have rooms which resemble loose boxes for the horse rather than reasonable private rooms (laughter) fit for Judges of the High Court?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: The reason for this is that the Legislature does not sanction more money for the comforts of the Hon'ble Judges.

Mr. E. C. ORMOND: Perhaps, the Hon'ble Minister has not understood my question. I shall try to make myself clear. In view of the large profits made not on anything else but directly out of the administration of justice, is there any justification for appropriating all that profit and not providing even a small portion of it for reasonable amenities in the courts, particularly in the High Court of Calcutta?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I think I have given the reason for not spending more for the comfort of the High Court Judges. A further reason is to be found in the unwillingness of the Legislature to sanction more money for this purpose. If the Legislature would sanction more money for the comforts and luxury of the Judges, I shall have no hesitation in spending that money for their comforts.

Mr. PRESIDENT: Order, order. I think the question was whether Government made any attempts in that direction? Was any demand placed by Government before the Legislature in this matter? Was there any such provision in the Budget which has been refused by the Legislature?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I cannot say that attempts were not made. An attempt was made by Government, but it was not favoured by the leaders of the various parties.

Mr. E. C. ORMOND: Is it the policy of the Hon'ble Minister's department to continue to make this huge profit by the sale of justice throughout Bengal, or is the Hon'ble Minister prepared to consider the reduction of court-fees so that justice may be more easily available to those who are not millionaires?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: This is all controlled by the Legislature. If the Legislature thinks that justice should be less expensive and that the money for the administration of justice should be found from any other source, it is for the Legislature to suggest in what manner this can be done and not for my department.

Mr. E. C. ORMOND: I am respectfully asking, if I may be permitted to do so, about the policy of his own department. Is it his policy—or rather his department's policy—to keep up the profits high?

Mr. PRESIDENT: Mr. Ormond wants to know what is the policy of your department.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: The department's policy is to run the department and nothing else. (Laughter.) If the Legislature wants that some taxes should be reduced, it is their look-out and not the look-out of the department. If there is any profit, surely it does not go into the pockets of the Judicial Minister; it is credited to the general revenues of the province and is spent for the general administration of the country. If my friends think that the administrative departments of this province should not get any advantage from the Judicial Department, then it is for them to move a resolution to that effect and get it passed in this House as well as in the other House, which is practically the master of funds. If they say that the cost of justice should be reduced and that the money required for other purposes should be found from other sources, certainly the Minister of Justice will have absolutely no objection.

Mr. E. C. ORMOND: Arising out of answer (*e*) (*ii*), will the Hon'ble Minister be pleased to state whether it is not a misleading answer to say that it is necessary to keep these funds in order to pay for the running of the Court? The latter part of the answer is: "These fees help to pay for the running of the Court." The inference is that the Court could not run of itself if these fees were not kept up. In fact, Sir, there are enormous profits. Therefore, there is no reason why these fees should not be reduced. Has the Hon'ble Minister any explanation to give of that ingenious answer?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: My friend will have to think of this aspect of the question as well. When all these fees were fixed, the idea at the back of the mind of——

Mr. E. C. ORMOND: On a point of order, Sir,—

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I am replying; I am coming to the point. The Original Side of the High Court does not require any court-fee to be paid for starting a case, and if the court-fee is not paid, then that money must be saved by the parties, and if the parties are asked to make certain payments they cannot object.

Mr. E. C. ORMOND: I hesitate to interrupt the Hon'ble Minister, but, Sir, I have got to rise on a point of order. Is this an answer to my question? Mine is a very short and simple question. It may be that the Hon'ble Minister is not in a position to answer it to-day, in which case if he wishes to take time I should be very happy to await his answer to my question at a later date; but the question is simply whether the Government—the Minister's Government—has any policy in regard to this question of making any profit out of the administration of justice, or does he wish to continue that policy, or is he prepared to consider a change in the policy?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I have already given my reply to the honourable member, Sir. The policy is not the policy of any individual Minister who may be running the department. The policy is the policy of the Legislature and of the Government.

Mr. PRESIDENT: Order, order. Let me explain Mr. Ormond's question. He did not suggest that no fees should be charged. His contention is that the amount charged is too high and that you are making a profit out of it. In view of that, is the Government agreeable to scale down the fees? That was the only and simple question.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: But that involves a very big issue. (Laughter.) If you say that I will reduce the earning of this department, you thereby ask me to accept the principle that the amount that is realized may be otherwise realized from other sources. But till the other sources are available, if I make this proposal to reduce this income of Government, then I submit that I should be begging the whole question, because the power is not mine alone. The power vests in the Legislature first. If the Legislature by a resolution in the Lower House and not in the Upper House makes a decision that there should be no profit——

Mr. PRESIDENT: Order, order. How does he contend that a resolution of the Lower House alone is binding on the Government? It is only in the matter of demands for grants that the right of this House is different from the other House. The resolutions of both the Houses are merely recommendations. As such, there should be no discrimination between the resolutions passed by this House and the other House.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, as far as I am aware of the provisions of the Government of India Act, the power as regards money matters vests in the Lower House.

Mr. PRESIDENT: Order, order. Don't you see the difference between demands for grants and resolutions? A resolution is simply a recommendation to Government, and so far as that recommendation is concerned, it is not mandatory.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Suppose, Sir, you make a recommendation and the Lower House at the same time passes a resolution and refuses a grant, then we must be helpless there.

Mr. E. C. ORMOND: Is the Hon'ble Minister aware that in the District Judges' courts throughout Bengal there are no satisfactory arrangements for short-hand typists who are capable of taking down the judgment of the District Judges and the result is that the District Judges have to do their own typing and clerical work?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I am aware of that.

Mr. E. C. ORMOND: Is the Hon'ble Minister of the opinion that it is more economical to pay the District Judges several thousand rupees——

Mr. PRESIDENT: Order, order. I think you are going beyond the scope of the question. It is better to give notice of a resolution and thrash out the whole matter in that connection.

Mr. HUMAYUN KABIR: Arising out of answer (c) (i), is the Hon'ble Minister aware that the initial cost of Rs. 110 is to be deposited in the Sheriff's office before a writ is issued?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: No.

Mr. HUMAYUN KABIR: Question (c) (i) is whether the attention of the Government has been drawn to this fact and the answer is "No". But my question is quite different from that. I ask whether the Government is aware that Rs. 110 is to be deposited in the Sheriff's office before a writ of execution is issued.

The Hon'ble Mr. H. S. SUHRAWARDY: The Hon'ble Minister has replied that it is not a fact. If it is not a fact, how can he be aware of it?

Mr. HUMAYUN KABIR: I am sorry the Hon'ble Mr. Suhrawardy has not read the question. If he had read the question and the answer thereto, he would not have made this remark. The original question was whether the attention of the Government had been drawn to the exorbitant charges for executing a decree and the answer is "No." That is one matter. And it is entirely a different matter whether Government is aware of the fees being there or not.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: It is true that my attention has been drawn to this fact and I am not aware of the fact.

Mr. HUMAYUN KABIR: Is the Hon'ble Minister also not aware of the fact that it has been raised from Rs. 25 to Rs. 110 from September, 1939?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I want notice.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister not take this question as in itself a notice of this state of affairs?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: If you read the answer you will find that "Sheriff's fees have been recently revised along with the other fees payable under the Original

Side Rules with effect from the 15th November, 1939." The Sheriff maintains an establishment at his own cost. So, really speaking, the question was whether my attention was drawn to this fact and I said "No". As regards the other question, I want notice and in future I shall let you know whether this was a fact or not.

Mr. HUMAYUN KABIR: Was not the attention of the Hon'ble Minister drawn to this state of affairs when he received notice of this question?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: The question speaks for itself and whatever answer is to be given has been given.

Rai KESHAB CHANDRA BANERJEE Bahadur: In view of the observation made by the Hon'ble Minister a short while ago that his department has no definite policy to follow——

Mr. PRESIDENT: Order, order; he has not said so.

Excise Shops.

94. Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister in charge of the Forest and Excise Department be pleased to state—

(*a*) how many excise shops in each district of Bengal and in Calcutta have been let out to new vendors during the financial year 1939-40;

(*b*) how many of the new vendors are Hindus and how many are Moslems; and

(*c*) what is the average annual income of each of the shops so let out in the year 1939-40?

MINISTER in charge of the FOREST and EXCISE DEPARTMENT (the Hon'ble Mr. PRASANNA DEB RAIKUT): (*a*) and (*b*) A statement is placed on the table.

(*c*) I regret that it is not possible to collect the information in commensurate with the labour involved.

Statement referred to in the reply to question No. 94 showing the excise shops let out to new vendors during the financial year 1939-40.

Name of district.	Number of excise shops let out to new vendors during the year 1939-40.	How many of the new vendors are—		
		Hindus.	Muslims.	Hillmen.
Burdwan	14	13	1	..
Birbhum	3	3	..	..
Bankura	11	11	..	..
Midnapore	7	6	1	..
Hooghly	1	..	1	..
Howrah	..	..	..	..
24-Parganas	10	5	5	..
Calcutta	8	7	1	..
Nadia	7	7	..	..
Murshidabad ..	20	17	3	..
Jessore	..	..	..	..
Khulna	..	..	..	..
Dacca	6	2	4	..
Mymensingh	6	3	3	..
Faridpur	5	2	3	..
Bakarganj	4	3	1	..
Chittagong	1	1	..*	..
Tippera	3	2	1	..
Noakhali	..	..	..	..
Rajshahi	16	9	7	..
Rangpur	6	3	3	
Dinajpur	1	1	..	..
Jalpaiguri	..	..	..	..
Bogra	1	..	1	..
Pabna	1	..	1	..
Malda	13	8	5	..
Darjeeling	3	1	..	2
Total ..	147	104	41	2

*Surrendered on account of poor site.

Khan Bahadur ATAUR RAHMAN: May I ask the Hon'ble Minister to state what is the proportion of population in Bengal between the Hindus and the Muhammadans?

The Hon'ble Mr. PRASANNA DEB RAIKUT: I will refer the honourable member to the Census report.

Khan Bahadur ATAUR RAHMAN: Has the Hon'ble Minister ever referred to the Census report, and has he any idea of the Muslim population in Bengal?

The Hon'ble Mr. PRASANNA DEB RAIKUT: I don't understand the question.

Khan Bahadur ATAUR RAHMAN: I want to know whether the Minister knows what is the Muslim population of Bengal.

Mr. PRESIDENT: Order, order. There should not be any abuse of the right of question. The Muslim population of Bengal is well known to the questioner himself. I won't allow such questions.

Khan Bahadur ATAUR RAHMAN: May I ask out of 147 excise shops in Bengal why only 41 were given to the Muhammadans? Is it commensurate to the population?

The Hon'ble Mr. PRASANNA DEB RAIKUT: The honourable member does not know that these shops are run on a fixed fee system and no proportionate percentage can be fixed for Muslim shops.

Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister be pleased to state whether no suitable Muslim candidates were available for excise shops?

The Hon'ble Mr. PRASANNA DEB RAIKUT: It appears so.

Khan Bahadur ATAUR RAHMAN: Why are so few given to the Muslims?

The Hon'ble Mr. PRASANNA DEB RAIKUT: Because there were no candidates.

Rai KESHAB CHANDRA BANERJEE Bahadur: Will the Hon'ble Minister be pleased to state whether or not it is a fact that orthodox Muslims do not come forward for these shops?

The Hon'ble Mr. PRASANNA DEB RAIKUT: It was a fact but I do not know if it is still a fact.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state why were 41 shops given to the Muhammadans in view of the fact that sale of liquor is prohibited according to the Muslim religion?

Mr. PRESIDENT: Order, order.

Question No. 88 which was not answered yesterday may now be put.

88. Rai Sahib INDU BHUSAN SARKER: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether with a view to redressing the grievances referred to in a question put by Mr. K. C. Roy Chowdhury, M.L.C., during the last session of the Council, the Inspector-General of Registration issued a circular to all District Registrars prohibiting private search of Index Register and Register of Copies of Deeds?

(*b*) How far has the circular been effective, specially in the case of Howrah Sadar Registration Office?

(*c*) Is it a fact that any man can search the records from the Howrah Sadar Registration Office without going through the proper channel and avoiding payment of prescribed fees?

(*d*) Will the Hon'ble Minister be pleased to furnish a comparative statement showing for last two years the number of cases of transfer of the permanent staff and extra muharrirs and the travelling allowance incurred on that account in the Registration Offices, Howrah, during the present District Sub-Registrar's as well as his predecessor's time?

(*e*) Does the Hon'ble Minister propose to make an enquiry into the District Sub-Registrar's commission cases for the last six months and state the exact number of cases where the usual travelling allowance which has been raised from Rs. 2-8 to Rs. 4 plus the compulsory taxi hire have been charged from the registering public?

The Hon'ble Mr. PRASANNA DEB RAIKUT (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): (*a*) No.

(*b*) Does not arise.

(*c*) No, not to my knowledge.

(*d*) A statement is laid on the Table. The present District Sub-Registrar joined on the 5th October, 1937.

(*e*) There were 25 visit and commission cases in the Howrah office during the last 6 months and fees have been realised according to the prescribed scale in all such cases.

Comparative statement of transfers of clerks and Muharrirs in Registration Offices in the district of Howrah, referred to in reply to question No. 88.

	Number of transfers of clerks and muharrirs.	Expenditure incurred.	
		Rs.	a.
1936-37	2	6	8
1937-38	1	11	3
1938-39	5	20	3
1939-40	6	32	4

Note.—(1) No extra muharrir was transferred as their services are not transferable.

(2) The present District Sub-Registrar joined on the 5th October, 1937.

Rai Sahib INDU BHUSAN SARKER: With reference to question (*a*), whether such a circular of the Inspector-General of Registration was issued or whether the grievances referred to in the question of Mr. K. C. Roy Chowdhury, the answer was "no"? I beg to submit the question consists of two parts and there cannot be one reply.

The Hon'ble Mr. PRASANNA DEB RAIKUT: The answer is there; it includes both the questions.

Mr. PRESIDENT: Order, order. The House will now resume further consideration of the Bengal Tenancy (Third Amendment) Bill, 1939.

The Bengal Tenancy (Third Amendment) Bill, 1939.

Khan Bahadur M. SHAMSUZZOHA: Sir, I beg to move my amendment No. 17 with certain modifications, submitted yesterday.

Mr. PRESIDENT: You read it as it is now.

Khan Bahadur M. SHAMSUZZOHA: I beg to move that after sub-clause (2) of clause 3 of the Bill, the following new sub-clause be inserted, namely:—

"(2A) In sub-section (4)—

(a) after clause (b) the following shall be inserted, namely:—

'or

(c) a mortgage of such holding, portion or share [other than a complete usufructuary mortgage or a usufructuary mortgage referred to in clause (b)] in which possession of land is delivered to the mortgagee;' and

(b) for the proviso, the following shall be substituted, namely:—

Provided that such a document as is referred to in clause (a) or clause (b) executed before the commencement of the Bengal Tenancy (Amendment) Act, 1928, and such a document as is fererred to in clause (c) executed before the commencement of the Bengal Tenancy (Amendment) Act, 1940, may be so received in evidence or so acted upon as a complete usufructuary mortgage for the period mentioned therein or for fifteen years, whichever is less".

Mr. E. C. ORMOND: On a point of order, Sir. Is not this reopening your decision of yesterday? The effect of this amendment is exactly the same as the original No. 17 but it is sought to be camouflaged, if I may use the expression. The honourable member yesterday tried to inform this House that he was only making some slight alterations and that the matter was very simple. The proviso of this amendment will have the effect that any mortgage other than a complete usufructuary mortgage will be void after 15 years. That appears to be what the honourable member intends and in that case, this proviso, having the same effect, would bring restrospective effect from 1928 up to 1940, which you, Sir, ruled out of order yesterday.

Khan Bahadur M. SHAMSUZZOHA: My friend, Sir, is labouring under a misapprehension. This amendment has practically no relation to the amendment which, Sir, you were pleased to rule out of order yesterday. The present amendment is with reference to clause 2 of this Bill.

Mr. E. C. ORMOND: It may have reference to a different clause. If I may make my point more clear, this is an amendment of section 4 of the original Act. Section 4 of the original Act, it is quite true,

has no retrospective effect. It lays down what kind of mortgages will be open to an occupancy-*raiyat* after the passing of the Act. That was in 1938. Similarly, if sub-clause (*4*) of section 26G is now amended by the present Act without any proviso that would merely have the effect of laying down what type of mortgages would be open for an occupancy-*raiyat* after the passing of this Act. But it is this proviso that I am taking objection to. In the main body of this amendment, under the heading "(*c*)" all mortgages are prohibited including presumably simple mortgages, anomalous mortgages and mortgages by conditional sale. They are all prohibited after the passing of this Act. Then in the proviso it is sought to be suggested that the last kind of mortgage which is referred to in (*c*), that is to say, all mortgages including mortgages by conditional sale, simple mortgages and the rest, if executed before the commencement of the Bengal Tenancy (Amendment) Act, 1940, which is the present Bill, that is to say, executed even last week, may be so received in evidence or so acted upon as a complete usufructuary mortgage, for the period mentioned therein, or, for 15 years, whichever is less.

Therefore, Sir, as it appears to me,—I speak subject to correction—it may depend on how far the proviso can make a substantive law—but in so far as there is that in the proviso it has the effect that, those mortgages even though entered into last week or last year or 5 years ago, that is to say, after 1928 and between 1940, shall become void after 15 years and that is the exact effect, Sir, of the other amendment which you disallowed yesterday.

Mr. PRESIDENT: Khan Bahadur, I like to hear you exactly on the points raised by Mr. Ormond. In a different way, you seem to be going against the ruling of the Chair.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I just have your permission, Sir, to reply to Mr. Ormond? I am afraid he is right. The object of this amendment moved by the Khan Bahadur is this. By sub-section (*4*) of section 26G, all classes of mortgages other than complete usufructuary mortgages entered into after 1928 were made illegal. Now, the Khan Bahadur wanted to include in (*c*) conditional sales. That is his real object. But his first amendment containing "or after" being ruled out of order, we shall have to confine it to mortgages executed before 1928 and not after 1940.

Mr. PRESIDENT: As a special concession, I allowed him to move this amendment but now I find that without alteration it would be out of order and I shall not allow frequent revision of these amendments. So, I rule this amendment out of order.

Khan Bahadur NAZIRUDDIN AHMAD: May I submit, Sir, that this is the inevitable result of hasty proceedings in the Upper House the action whereof should not be characterized by haste? This House should proceed with caution and deliberation. We, however, find that mistakes after mistakes have been committed in Bills brought before the House and we have been asked in the name of loyalty and patriotism to forego our right of amendment, right of correction and right of consideration—to abdicate our legitimate function. I beg to submit, Sir, that many mistakes crept into the amendming Act of 1928, also in the amending Act of 1938 and then again in the present Bill; and I am confident from experience that such would be the case in similar Bills in the future also. We are being considered to be so many high speed automatic machines who must accept anything and everything. Faulty and hasty draftmanship with resulting anomalies have been the order of the day. It is not enough that we should fire away with nice and generous sentiments. That is the business of a Legislature. We must give our sentiments a proper legislative shape.

Mr. PRESIDENT: Order, order. I appreciate your point and I shall not allow all these amendments which are moved in the House without any previous notice. Only those that are printed will be considered as also those that were circulated a few days ago in a typed form.

Mr. J. B. ROSS: On a point of order, Sir. Before we proceed further I would suggest that having regard to the difficulties in which the Hon'ble Minister finds himself in view of your rulings, the Bill might be referred back to the Select Committee.

Mr. PRESIDENT: At this stage, our procedure will not allow any reference back to the Select Committee.

Khan Bahadur M. SHAMSUZZOHA: Sir, I beg to move: that in sub-clause (*5*) of clause 3 of the Bill, for proposed sub-section (*7*), the following shall be substituted:—

"(*7*) Any order made by a Court under sub-section (*6*) shall have the effect of a decree of a Civil Court and shall be subject to the provisions of the Code of Civil Procedure, 1908, in respect of appeal, revision or review:

Provided that notwithstanding anything contained in this or any other Act for the time being in force, a memorandum of appeal or application for review or revision under this sub-section shall be chargeable with a fee of twelve annas only."

Now, Sir, in moving this amendment I may briefly submit that in view of the fact that the enquiry contemplated in sub-section (*6*) of section 26G will be a very limited one, viz., that the Civil Court which is invested with power to make the enquiry will have very short issues before it, namely, whether by the usufruct of the lands in possession of the mortgagee the mortgaged debt has been extinguished or not and further, in cases where the mortgagee would have remained in possession of the land far in excess of 15 years, whether the mortgagor who was entitled to possession after 15 years will be entitled to any compensation on equitable grounds. Principally, these will be the two points that will come up for enquiry before the Civil Court.

Now, Sir, in view of the fact that the mortgagor will have the right of making objections, there may be some other questions as well; still principally the issues before the Court would be very simple and in order that the decision of the Civil Court under sub-section (*6*) may be contested by any party whatsoever, either the mortgagor or the mortgagee, I have provided, with the purpose of shortening litigation, that this decision of the Court will be considered as a decree under the Civil Procedure Code. Since it will be considered a decree, Sir, I have, therefore, further provided that it also shall be subject to appeal or revision or review as the case may be, and in order that these appeals, applications for review or revision may be prosecuted with greater facility, I have also deemed it necessary that the court-fees to be paid on these proceedings should be only annas twelve. If my amendment is accepted, Sir, it will shorten the scope of litigation. It will also make many provisions which have been suggested in the Select Committee unnecessary and I hope, Sir, this will be accepted by the House.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*5*) of clause 3 of the Bill, for proposed sub-section (*7*), the following shall be substituted:—

"Any order made by a Court under sub-section (*6*) shall have the effect of a decree of a Civil Court and shall be subject to the provisions of the Code of Civil Procedure, 1908, in respect of appeal, revision or review:

Provided that notwithstanding anything contained in this or any other Act for the time being in force, a memorandum of appeal or application for review or revision under this sub-section shall be chargeable with a fee of twelve annas only."

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Government are prepared to accept this amendment.

Mr. KAMINI KUMAR DUTTA: Sir, I rise to support this amendment. I think, Sir, it is a decided improvement upon the existing law on the subject as well as on the amendment suggested in the report of the Select Committee.

As the law now stands, there is a conflict of rulings as to whether a decision made under section 26G of the Bengal Tenancy Act is appealable or not in such cases. According to some of the rulings, it is appealable, but preponderance of opinion is that it is not appealable. Moreover, according to an amendment already accepted by this House, the function of the Revenue Officer would be eliminated. That brings us to the position that it is only the Civil Courts which will henceforth adjudicate in such matters. As it will involve important questions of dispute between the contending parties, the orders passed by the Civil Court ought not to be made final. The right of appeal, the right of revision and the right of review in respect of these orders ought to be provided for and this amendment has made provision for that. Certainly, it will not only remove the anomaly existing in the present Act of 1938 but it is an improvement upon the Act as it was first laid before this House and also as it emerged from the Select Committee. I fully support this amendment.

Of course, in this connection it will not be out of place to express an opinion—an opinion which we hold very strongly,—that the shape in which this Bill was presented to us was absolutely useless. There was some intention behind the Bill. The expressions used were quite inappropriate and inadequate. Looking to sub-clause (*5*) of section 26G of the Bengal Tenancy Act, we find that there are really two important provisions: one aims at the extinction of the debt and the other at the right to get possession of the land. As to the extinction of the debt, no doubt the Act of 1938 provides for it, but it has been ruled by the Hon'ble Judges of the High Court that the extinction of the debt is a question relating to contract and falls within the scope of the Concurrent List. It has already been remarked by the Hon'ble Judges of the High Court that the first portion of sub-clause (*5*) of section 26G is *ultra vires* in view of the fact that the assent of the Governor-General was not obtained, as contemplated under section 102 (*2*) of the Government of India Act, 1935. However, even after the findings of the Hon'ble Judges, a provision has been made in this Bill. The result is a very anomalous one. In the case of a mortgage, a decree may be passed by the Court for giving possession of the land, but the provision for the recovery of the money will still operate, the provision for the extinction of the debts having been found to be *ultra vires*. Even if the consent to this particular Bill is obtained, it will not cure that, because in this particular Bill there is no provision for the extinction of the debt. I simply draw the attention of those who are in charge of the drafting of this Bill so that such

errors may not occur in future. The present Bill is an improvement on the existing state of things but still the difficulty remains. Really, the right of the mortgagee to sue for the money still remains unaffected.

With these remarks, I fully support the amendment which I consider to be a decided improvement.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*5*) of clause 3 of the Bill, for proposed sub-section (*7*), the following shall be substituted:—

"(*7*) Any order made by a Court under sub-section (*6*) shall have the effect of a decree of a Civil Court and shall be subject to the provisions of the Code of Civil Procedure, 1908, in respect of appeal, revision or review:

Provided that notwithstanding anything contained in this or any other Act for the time being in force, a memorandum of appeal or application for review or revision under this sub-section shall be chargeable with a fee of twelve annas only."

(The amendment was agreed to.)

Khan Bahadur M. SHAMSUZZOHA: I beg to move: that in sub-clause (*5*) of clause 3 of the Bill, the proposed sub-section (*8*) be omitted.

This is consequential, in view of the amendments 18(*a*) and 18(*b*) which have been accepted by the House, and in view of the fact that we are not advising the Revenue officer to make any enquiry, I hope it will be accepted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*5*) of clause 3 of the Bill, the proposed sub-section (*8*) shall be omitted.

The question before the House is: that in sub-clause (*5*) of clause 3 of the Bill, the proposed sub-section (*8*) be omitted.

(The motion was agreed to.)

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, before moving I ask your ruling whether I can move amendments Nos. 21, 22, 26, 27, 43-44 and 51-52 together.

Mr. PRESIDENT: Yes.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSA
seek to remove the provisions of sub-clauses (*9*), (*10*), (*11*), (*12*), (*13*), (*14*) and (*15*) which were incorporated on the recommendation of the

Select Committee. My object in asking for the deletion of this sub-clause is that this sub-clause only keeps open the door for litigation. I think litigation in this matter will be ruinous to the agriculturists.

Mr. KAMINI KUMAR DUTTA: May I rise on a point of order, Sir? The amendment which has been accepted by this House runs thus: "As to sub-section (7) that in sub-clause (5) of clause 3 of the Bill for the proposed sub-section (7) the following shall be substituted." Now, the original sub-section was "any order made in sub-section (6) shall be subject to the provisions of sub-section (9) and be final." Practically, by accepting this last amendment, we have decided upon the question of sub-section (9). So sub-section (9) goes out altogether.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: That is my amendment also.

Mr. E. C. ORMOND: On a point of order, Sir, in relation to this. You will see that sub-section (9) gives the person aggrieved the specific right of suit. It reads "Any person aggrieved by an order made under sub-section (6) may within three months from the date of such orders institute a suit in a Civil Court which would have jurisdiction to entertain a suit for possession of the mortgaged property to which such order relates." So, it gives the right of suit and the question is whether that is an additional matter or whether it is the same. At the moment, I must confess that I am not quite clear.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: I was doubtful regarding this matter. That is why I thought it necessary to remove this anomaly by an amendment and for that purpose I have tabled that amendment.

Mr. E. C. ORMOND: There is no harm in that going out. It is not mentioned in sub-clause (9) what the suit is to be for. I suppose the suit is for possession of the mortgaged property. Then sub-clauses (10) and (11) go on to say what the suit is going to be for.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I think after amendment No. 19 moved by Khan Bahadur Shamsuzzoha, this is unnecessary because amendment No. 19 gives the right of appeal to the mortgagee. The Bill always presupposes a suit.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: In any case, the deletion is necessary.

Mr. E. C. ORMOND: As it strikes me, the question is whether the suit referred to in sub-section (*9*) is the same or different from the suits which are referred to in sub-clauses (*10*) and (*11*). If it is the same, as that in (*10*) and (*11*), then (*10*) and (*11*) will give the right to sue without it. I submit that it is quite unnecessary.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Not the same suit but I would say of the same nature. It is a different thing. It will not be inconsistent, but it is quite unnecessary.

Mr. PRESIDENT: After the passing of the last amendment, it seems to be unnecessary, but it is not inconsistent. So, I do not rule it out of order.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: In any case, it has to be deleted. I move that in sub-clause (*5*) of clause 3 of the Bill, the proposed sub-section (*9*) be omitted.

Whether it is unnecessary or whether it is connected with subsequent sub-sections, I will argue on both the points. If it is unnecessary because of the passing of amendment No. 19, then it goes out automatically, as it ought to. If it is considered that it is a new thing altogether, connected with subsequent sub-sections (*10*), (*11*), (*12*), (*13*), (*14*) and (*15*), in that case also I would argue that this sub-section keeps open the door for litigation both for the tenants and for the creditors which is undesirable under the circumstances.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Amendments Nos. 10, 11, 13, 14 and 15 do not hang together. I am just trying to point out to the Khan Bahadur that he should dispose of sub-section (*9*) first and then advance arguments with regard to the other sub-clauses.

Mr. KAMINI KUMAR DUTTA: They are independent of each other.

Mr. PRESIDENT: Khan Bahadur, you move your amendment.

Khan Bahadur SAIYED MUAZZAMUDDIIN HOSAIN: I beg to move: that from sub-clause (*5*) of clause 3 of the Bill, the proposed sub-section (*9*) be omitted.

I am prepared to accept what has just fallen from the Hon'ble Revenue Minister, because I think there is a reference to sub-section (*6*) in the proposed sub-section (*9*). I believe it does not refer to subsequent sections, but refers to the provisions of sub-section (*6*). When amendment No. 19 has been accepted, I think this goes out automatically.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*5*) of clause 3 of the Bill, the proposed sub-section (*9*) be omitted.

The question before the House is: that in sub-clause (*5*) of clause 3 of the Bill, the proposed sub-section (*9*) be omitted.

(The amendment was agreed to.)

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: I beg to move: that from sub-clause (*5*) of clause 3 of the Bill, the proposed sub-section (*10*) be omitted. Sir, I have proposed amendments for omitting sub-sections (*11*) to (*15*) also.

All these are, of course, of a similar nature and they seek to remove all these sub-sections [(*10*), (*11*), (*12*), (*13*), (*14*) and (*15*)]. These sub-sections make provisions for allowing the mortgagor and the mortgagee to fight out in the Civil Court as to what extent the loan has been cleared and if the interest has also been cleared off from the usufruct of the land, and so on. This will throw open the door to litigation. I think it would be ruinous to the tenantry of Bengal. I do not approve of the sections which help them to get back their lands within the period of 15 years or the period mentioned in the lease because, knowing as I do, of the activities of the *touts* in the villages, I am sure they will persuade the tenants and take them to court.

Mr. MESBAHUDDIN AHMAD: What are the amendments you are referring to?

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: I shall formally move my amendment after I finish my speech. What I want to say is this. I do not like even the tenants getting their lands earlier by going to courts and spending money over that and fighting with the *mahajans* and creditors. We want substantial justice to be done to the tenants and on the basis of that the Bill, as it originally came from the Assembly, did make provision in that behalf. Sir, I think it will be cruel to send the tenants to court and make them spend money over these things. As a matter of fact, I know in most cases it will be impossible for them to prove any thing in court. The lands being with the creditors and they being in possession, it will be easy for them to prove anything they want to. So, I think it will be practically denying the debtors justice by putting them to costly litigation, if this provision remains in the Act.

So, I formally move my amendment: that from sub-clause (*5*) of clause 3 of the Bill, the proposed sub-section (*10*) be omitted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*5*) of clause 3 of the Bill, the proposed sub-section (*10*) be omitted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, Government are prepared to accept the amendment.

Khan Bahadur REZZAQUL HAIDER CHOWDHURY: Sir, I beg to oppose this amendment moved by Khan Bahadur Saiyed Muzzamuddin Hosain. The reasons put forward by him are untenable. He wants to stop litigation. If this amendment is passed, then it will come to this. The amendment will not be applicable in the case of those mortgages in which the mortgagee has applied for closure. So, we are going to punish those who did not go for litigation. Sir, we want to stop litigation but we are going to punish those who did not go for litigation. I would ask the members to consider, consistently with our object in view, whether this amendment can be supported, as though it is going to stop litigation. The Khan Bahadur says that he is fighting for the poor tenant. From my own experience in Noakhali I may say that these amendments would go a great way against the interests of the tenant as mortgage by conditional sale is very common among tenants.

Then, Sir, he says or rather it has been argued that the Khan Bahadur would not allow the tenant to go to court even before 15 years to show that the debt has been wiped off, but he forgets that in the Bengal Agricultural Debtors Act itself there is a provision that even in mortgages by conditional sale the mortgagor can go to the Debt Settlement Board and avail himself of the privileges conferred under the Bengal Agricultural Debtors Act. We have already accepted that provision. It is the corresponding right of the mortgagee to allow him just to go to court and show that his debt has been wiped out. When this amendment was considered in the Select Committee, if I may be permitted to refer to it, Sir, this point was discussed threadbare——

Mr. PRESIDENT: Order, order. You will not be in order to refer to what passed in the Select Committee.

Khan Bahadur REZZAQUL HAIDER CHOWDHURY: I am not going to say what passed in the Select Committee. I only want to say that this point has been considered in the Select Committee. It will be very unjust and unfair not to give the corresponding right to the mortgagee. So, Sir, in my humble opinion this amendment will go against the interest of the tenantry.

Mr. E. C. ORMOND: Mr. President, Sir, the honourable mover has allowed his enthusiasm to run away with himself. I believe if we could look into the future five years hence, if these amendments which have been placed in the Bill by the Select Committee after considerable thought and are in the Bill as it stands before this House, if these

amendments are thrown out I believe, Sir, the honourable mover himself will have his life pestered by the tenants complaining against him. He has suggested that these clauses are against the tenant. They are not against the tenant. They are reasonable clauses to soften down the expropriatory effect of this Bill and I say, Sir, that if these clauses are not passed it will be obvious beyond controversy, beyond any shadow of controversy, that this is an expropriatory Bill which should not be put on the statute book and what will happen to it, hereafter, who can say. If these sections are passed then the position will be this that men who have entered into mortgages, just legal mortgages which have received the justification and the encouragement of the law are told that those mortgages are cut short after 15 years and the mortgagee has to return back the lands. But if this clause is passed both the mortgagee and the mortgagor have power to go to court and have their possession adjudicated so that no hardship is done. The first part of these clauses is to allow the mortgagor a specific right of redemption by going to court and prove to the court that he has already paid off his debt, that the debt has been paid off either in the value of crops or in anything else. Now, Sir, the honourable the mover has suggested that it would be a hardship to the tenants to be dragged to court even as plaintiffs in their own suits because, he said, the touts will throw dust in their eyes, take them to court, tell them that the suit will be in his interest and that he had better go to court. With a wholesome dislike of litigation the honourable mover suggested that this would be bad for the tenants.

But, Sir, which is worse for a tenant, to have the right to go to court after 3 or 4 years and prove that he has paid off his debt and get his land back by a decree of the court or be shut out from the courts and be compelled to go on having his land out of his possession for the whole period of 15 years? Which would the tenants prefer? Will they prefer to be kept out of possession, whether they like it or not, for 15 years, or, would they like to have the power to go to court, if they wish to, and get their holding back? I submit, Sir, that it needs only to be stated to show that that provision, giving the mortgagor, that is the occupancy-raiyat himself, right to go to court and show that he has paid off his debt, is a valuable right for the mortgagor.

Now, Sir, the other provision in these sections is to give the mortgagee a corresponding right. But you will notice, Sir, and the House will notice, that the mortgagee is only allowed to go to court on the expiry of this 15 years. Now, is it likely that a mortgagee will incur the expense of a suit after he has been put out of possession of the land? Is it inevitably to happen after 15 years? Is it likely that the mortgagee will go to court, file a problematic suit just for the fun of paying his pleaders and get nothing? Suppose he has in fact received full repayment of his loan through the crops, he will leave the matter

alone. He will not go to court with a suit in which he knows he will fail. The only suits which are likely to be filed will be by the mortgagee who has received nothing for his money. And, Sir, I submit that for both these reasons, because it gives the right to the mortgagor to get his land back if he can show that he has paid the full dues under the mortgage at an earlier time and also because it softens down, what is otherwise a mere legislative theft, from the person who has lent the money. For both these reasons, these provisions are salutary, reasonable and should be accepted by the House.

Mr. NUR AHMED: Mr. President, Sir, I rise to support the amendment moved by my friend Khan Bahadur Saiyed Muazzumuddin Hosain. I find that clause 10, as it stands, is divided into two parts. One part gives power to the mortgagor to go to the court. Even 15 years, Sir, in my humble opinion, is not necessary; that has already been provided in the Bill. Sub-section (*2*) of section 26G says:

"Notwithstanding any contract to the contrary, entered into before or after the commencement of the Bengal Tenancy (Amendment) Act, 1928, such a complete usufructuary mortgage, or a mortgage referred to in sub-section (*1a*) may be redeemed at any time before the expiry of the periods referred to in sub-section (*1*) or sub-section (*1a*)."

Now, this is a clear provision. This sub-section (*1a*) of this clause has been amended by this very Bill and mortgage by conditional sale has been included in it. So, here is a provision for this which is provided for sub-clause (*a*). But in my humble opinion there is no necessity for sub-clause (*a*), because there is already a provision made in the Act. Now, coming to sub-clause (*b*) which gives power to the mortgagee to go to court to have an adjustment of his account, my humble submission is that it would create an anomalous state of things. Sub-section (*1a*) which has just been amended would run as follows:—

"Notwithstanding anything contained in this Act or in any other law or in any contract every usufructuary mortgage (including a mortgage by conditional sale) subsisting on or after the first day of August, 1937, which was so entered into before the commencement of the Bengal Tenancy (Amendment) Act, 1928, shall be deemed to have taken effect as a complete usufructuary mortgage for the period mentioned in the instrument or for fifteen years, whichever is less."

This is one part. Then there is another sub-section (*5*) of section 26G which reads in part as follows:—

The consideration of a complete usufructuary mortgage or for another form of usufructuary mortgage deemed under sub-section (*1a*) to have taken effect as a complete usufructuary mortgage,.....
.....shall be deemed to have been extinguished.....
after 15 years.

Now, the question arises, if the mortgage stands extinguished after 16 years, how could there be any suit for the extinguishment of the very mortgage or for the adjustment of accounts?

So, if this sub-clause (*b*) is enacted into law, then there would be two contrary provisions in the very Act. One will say that the usufructuary mortgage will stand extinguished; whereas another will say that after that also there will be a suit.

On these two grounds, Sir, I support the am t.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*5*) of clause 3 of the Bill, the proposed sub-section (*10*) be omitted.

A division being challenged, the House divided with the following result:—

AYES—18.

Ahmad, Khan Bahadur Naziruddin.
Ahmed, Mr. Mesbahuddin.
Ahmed, Mr. Nur.
Barua, Dr. Arabinda.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Mr. Hamidul Huq.
Chowdhury, Khan Bahadur Rezzaqui Haider.
Hosain, Khan Bahadur Saiyed Muazzamuddin.
Hossain, Mr. Latafat.
Khan, Khan Bahadur Muhammad Asaf.
Molla, Khan Sahib Subidali.
Momin, Begum Hamida.
Rahman, Khan Bahadur Ataur.
Rahman, Khan Bahadur Mukhlesur.
Rashid, Khan Bahadur Kazi Abdur.
Ray, Mr. Nagendra Narayan.
Roy, Rai Bahadur Radhica Bhusan.
Shamsuzzoha, Khan Bahadur M.

NOES—19.

Banerjee, Rai Bahadur Keshab Chandra.
Bose, Rai Bahadur Manmatha Nath.
Chakravarti, Mr. Shrish Chandra.
Choudhury, Mr. Moazzemali.
Das, Mr. Lalit Chandra.
Dutta, Mr. Kamini Kumar.
Hunter, Mr. H. C. A.
Ibrahim, Khan Bahadur Maulvi Mohammad.
Maitra, Rai Bahadur Brojendra Mohan.
Ormond, Mr. E. C.
Pal Choudhury, Mr. Ranajit.
Ross, Mr. J. B.
Roy, Mr. Amulya Dhone.
Sanyal, Mr. Sachindra Narayan.
Sarker Rai Sahib Indu Bhusan.
Scott-Kerr, Mr. W. F.
Singh Roy, Mr. Saileswar.
Sinha, Rai Bahadur Surendra Narayan.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.

Mr. PRESIDENT: Order order. The House has divided: the "Ayes" being 18, and the "Noes" 19, the amendment is negatived.

Mr. E. C. ORMOND: I beg to move that in sub-clause (*5*) of clause 3 of the Bill, in the proposed sub-section (*10*), for the words "by conditional sale" in line 3, the words and brackets "(other than a complete usufructuary mortgage)" be substituted.

The result of that will be that sub-section (*10*) will read as follows:—

"Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force or in any contract in respect of a mortgage other than a complete usufructuary mortgage subsisting

on the date of the commencement of the Bengal Tenancy Amendment Act, 1940, in which possession of land has been delivered to the mortgagee, and it goes on to say that the mortgagor will have a certain right to suit and the mortgagee will have also a certain right to sue."

The object of this amendment is to give these reasonable remedies in cases of anomalous and other mortgages which are not included in the Bill as it stands now. That is the only difference. As the Bill stands before this House now,—these rights of suit that is to say the right of suit to the mortgagor to get his land back early if he can show that he has paid off his debt and the right of suit to the mortgagee at the expiration of 15 years to show that he has not received any reasonable amount for the money advanced and should be allowed by the court to go back into possession,—these rights of suits as the Bill now stands, are only open in respect of a mortgage by conditional sale, subsisting on the date of the commencement of the Bengal Tenancy Amendment Act, 1940, in which possession of land has been delivered to the mortgagee. We would like to see those reasonable rights opened up and give to other persons rights in relation to other transactions which would include anomalous mortgage and the like. That is the sole object of this amendment and I submit to the House that it should look at the matter in a dispassioned frame of mind. After having passed the amendment which has just been passed that clause 10 should remain in the Bill for conditional sale, it is only reasonable that the same remedy should be open also in the case of anomalous mortgages and the like. It should be remembered that this Bill gives retrospective effect without any remedies for exceptional cases. Therefore I move the amendment which stands in my name and that of Mr. Hunter and Mr. Scott-Kerr.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*5*) of clause 3 of the Bill, in the proposed sub-section (*10*), for the words "by conditional sale" in line 3, the words and brackets "(other than a complete usufructuary mortgage)" be substituted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I rise to oppose the amendment moved by Mr. Ormond.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: On a point of order, Sir. Is it not out of order to go beyond the scope of the Bill. The Bill was not to touch the provisions made with regard to complete usufructuary mortgages that were not within the purview of this Bill and to make any changes regarding them. They will automatically be extinguished. This amendment touches them also. It is not open to us to do that.

Mr. E. C. ORMOND: As it strikes me, unless I am under some delusion, incomplete usufructuary mortgages are not touched by the Bill at all and therefore——

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: According to your amendment, it will.

Mr. E. C. ORMOND: In any event, the provisions are reasonable.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: What is the object of Mr. Ormond's amendment? The amendment amounts to this that the remedy which is available to the person who has pledged his property under conditional sale should also be available to those who have pledged their property under complete usufructuary mortgage or under mortgages other than complete usufructuary mortgages. According to the Act of 1938, all mortgages which were not complete usufructuary mortgages should be treated as complete usufructuary mortgages. So, they have been placed in the same category as complete usufructuary mortgages. Now, the proposal is to include conditional sales and the amendment which has just been accepted by the House will give special remedy to people who have pledged their properties under conditional sale. In those cases they will have the right, both the mortgagor and the mortgagee, to go to the court and to the mortgagor to ask for the return of the property before the 15th year and in the case of the mortgagee to show that after the 15th year his debts have not been liquidated. Mr. Ormond's suggestion is to extend it further in this way that those who do not come within the category of complete usufructuary mortgages should also be given the same remedy.

Mr. KAMINI KUMAR DUTTA: I think the amendment which has been proposed by Mr. Ormond is absolutely outside the scope of our Bill. We are really concerned with complete usufructuary mortgages. As to incomplete usufructuary mortgages, this particular Bill is absolutely unconcerned. So, no provision respecting this ought to be laid down at all and I think this will lead to confusion.

Mr. PRESIDENT: Order, order. I rule that Mr. Ormond's amendment is out of order.

(The House was then adjourned till 3 p.m. on Tuesday, the 2nd April, 1940.)

(*After adjournment.*)

The Bengal Motor Vehicles Rules, 1940.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, with your permission, may I inform the House that the Joint Conference which was appointed to consider the Bengal Motor Vehicles Rules, 1940, have decided, on my suggestion, that the consideration of these Rules be postponed for the present and that the Report of the Conference be placed before the two Houses of the Legislature in the next session, I mean the Monsoon Session. In view of the fact that it will not be possible to get through the Rules in time before the two Houses of the Legislature are prorogued, Government have given an undertaking that when the Report is placed before the Houses, the members will have the right to suggest amendments and that such of them as are carried by the two Houses will be given effect to by Government in the same manner as if they had been done in this session. The Conference, Sir, unanimously agreed to this procedure.

Khan Bahadur NAZIRUDDIN AHMAD: On this subject, Sir, there is likely to be one procedural difficulty, and it is this. If the Rules were considered by the Legislature in the ordinary course and if there was a difference of opinion between the two Houses, there is a procedure to resolve that difference, namely, by a joint sitting. In case, the changes are attempted to be achieved by resolutions, there would be no machinery to resolve the difference of opinion between the two Houses, if any. I would ask the Hon'ble Minister to suggest a *via media* and to give us an indication as to how any difference which might arise would be resolved by Government.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I do not think, even if this matter had been placed in this session before the Legislature, that it would have been possible to have a joint sitting of the two Houses on this question, because, Sir, joint sitting is provided for only for Bills. It is a debatable point, Sir. In any case, if there is a difference of opinion, we can solve it better by negotiation and compromise than by simply carrying it by a majority of votes. I hope that there would not be any such occasion where the two Houses will have to divide, and I hope that the two Houses will be able to come to an agreed settlement.

Mr. PRESIDENT: The House will now resume further consideration of the Bengal Tenancy (Third Amendment) Bill, 1939.

The Bengal Tenancy (Third Amendment) Bill, 1939.

Khan Bahadur M. SHAMSUZZOHA: Sir, I beg to move that in sub-clause (*5*) of clause 3 of the Bill, clause (*b*) of the proposed sub-section (*10*) be omitted.

Sir, this amendment is not only in my name but also is in the names of my friend Mr. Lalit Chandra Das of the Congress Party and of some members of the European Group, including its Leader. That shows, Sir, the importance of the amendment, which I commend to the acceptance of the House.

Mr. PRESIDENT: I think this amendment is covered by amendments Nos. 28-31.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, Government would like to accept this amendment.

Mr. PRESIDENT: It is not for the Government but for the Chair to decide, first of all, whether this can be allowed. I have already ruled out of order amendments Nos. 28-31. This is covered by that ruling, and hence it is out of order.

Mr. KAMINI KUMAR DUTTA: Sir, I beg to move the amendment which stands in my name but before I do so, Sir, I beg to submit that it is either owing to my mistake or the printer's mistake that the word "be" appears for the word "lie" and the word "ordinarily" for the word "ordinary" in lines 1 and 9 respectively of my proposed sub-section (*15*). May I have your permission, Sir, to correct these mistakes?

Mr. PRESIDENT: Yes, you have my permission.

Mr. KAMINI KUMAR DUTTA: I beg to move that in sub-clause (*5*) of clause 3 of the Bill, for the proposed sub-section (*15*) the following be substituted, namely:—

"(*15*) An appeal shall lie to the High Court or the District Judge from any decree passed under sub-section (*12*) or sub-section (*13*) by any Court from the orders or decrees of which the High Court or the District Judge as the case may be, has—having reference to the pecuniary valuation of the suit—ordinary jurisdiction to entertain appeals, if such appeal is presented within three months from the date of the decree."

Now, here, in this sub-section (*15*) of the Bill it has been provided that all appeals shall go to the District Judge, but it appears to me, Sir, that some difficulty may arise as to the forum of the appeal, if

we would confine all appeals only to be filed before the District Judge. Because, Sir, it would appear from the Civil Courts Act (Act XII of 1887) in which it has been provided in section 21(*1*), "save as aforesaid an appeal from a decree or order of a Subordinate Judge shall lie (*a*) to the District Judge where the value of the original suit in which or in any proceeding arising out of which the decree or order was made did not exceed five thousand rupees, and (*b*) to the High Court in any other case."

Already, Sir, as to the forum of appeal, it has been laid down in Act XII of 1887, viz., the Civil Courts Act, that if the pecuniary valuation of a particular suit exceeds five thousand rupees, then an appeal should lie from the decree of a Subordinate Judge direct to the Hon'ble High Court. In cases where the pecuniary valuation extends only up to five thousand rupees an appeal would lie from the decree of the Subordinate Judge to the District Judge.

In order to avoid the difficulty which may subsequently arise in case of conflict between the provision of sub-section (*15*) and the provision under the Civil Courts Act, which is already in force, I have proposed this amendment that an appeal shall lie to the High Court and to the District Judge according as the pecuniary valuation varies. That is the amendment which I place before the House for acceptance, so that it may remove all sorts of anomalies in this respect.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*5*) of clause 3 of the Bill, for the proposed sub-section (*15*) the following be substituted, namely:—

"(*15*) An appeal shall lie to the High Court or the District Judge from any decree passed under sub-section (*12*) or sub-section (*13*) by any Court from the orders or decrees of which the High Court or the District Judge as the case may be, has—having reference to the pecuniary valuation of the suit—ordinary jurisdiction to entertain appeals, if such appeal is presented within three months from the date of the decree."

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I quite appreciate the point which has been placed before the House by my friend Mr. Dutta, but I do not think it is really of much practical importance. In how many cases could the value of the property covered by *kat-kabalas* be more than five thousand rupees (Mr. KAMINI KUMAR DUTTA: In many cases.) so as to justify an appeal to the High Court? In most of the cases they would be within five thousand rupees, so that an appeal to the District Judge will serve to meet the case. It is unnecessary to have an additional provision for appeal to the High Court. Moreover, if we allow an appeal to the High Court, it would only mean that we make it more difficult for the mortgagor to

take advantage of the law or to get benefit from it—benefit which we want to confer on him. In this view of the matter, Sir, I oppose this amendment.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*5*) of clause 3 of the Bill, for the proposed sub-section (*15*) the following be substituted, namely:—

"(*15*) An appeal shall lie to the High Court or the District Judge from any decree passed under sub-section (*12*) or sub-section (*13*) by any Court from the orders or decrees of which the High Court or the District Judge as the case may be, has—having reference to the pecuniary valuation of the suit—ordinary jurisdiction to entertain appeals, if such appeal is presented within three months from the date of the decree."

(The amendment was negatived.)

Rai SURENDRA NARAYAN SINHA Bahadur: I beg to move: that in sub-clause (*5*) of clause 3 of the Bill, in the proposed sub-section (*15*), for the words "three months" appearing in the last line, the words "ninety days" be substituted.

The object of this amendment is to make the period of limitation three months. But three months in some cases may mean less than 90 days. I, therefore, move that the period be not less than 90 days.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*5*) of clause 3 of the Bill, in the proposed sub-section (*15*) for the words "three months" appearing in the last line, the words "ninety days" be substituted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I do not think it is necessary. It is only a verbal change that the the honourable member is suggesting.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*5*) of clause 3 of the Bill in the proposed sub-section (*15*), for the words "three months" appearing in the last line, the words "ninety days" be substituted.

(The amendment was negatived.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Before you put the whole clause to vote, may I, with your permission, move an amendment? I mean amendment No. 17 of my friend Khan Bahadur Shamsuzzoha who wanted to move it but ultimately did not. I think an amendment in a modified form is essential.

Mr. PRESIDENT: It was ruled out of order.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It is not the same thing. I will just explain the object why I insist on moving this amendment.

Mr. PRESIDENT: Order, order. As I have already ruled that unless there is absolute unanimity in the House about a new amendment, I will not entertain any amendment to-day. I would like to know from the honourable members whether they have any objection to this amendments.

Khan Bahadur NAZIRUDDIN AHMED: We ought to know what the amendment is.

Mr. PRESIDENT: That after sub-clause (*2*) of clause 3 of the Bill, the following new sub-clause be inserted, namely:—

"(*2A*) in sub-section (*4*)—

(*a*) after clause (*b*) the following shall be inserted, namely:—

or

(*c*) a mortgage of such holding, portion or share (other than a complete usufructuary mortgage or a usufructuary mortgage referred to in clause (*b*) in which possession of land is delivered to the mortgagee; and

(*b*) for the proviso, the following shall be substituted, namely:—

Provided (*i*) that such a document as is referred to in clauses (*a*), (*b*) and (*c*) executed before the commencement of the Bengal Tenancy (Amendment) Act, 1928, may be so received in evidence or so acted upon as a complete usufructuary mortgage for the period mentioned therein or for fifteen years, whichever is less; and

(*ii*) that such a document is referred to in clause (*c*) executed after the commencement of the Bengal Tenancy (Amendment) Act, 1928, and before the commencement of the Bengal Tenancy (Amendment) Act, 1940, may be received in evidence or acted on in any Court or by any public servant."

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I would like to draw the attention of the House to sub-clause (*4*) of section 26(G). By sub-clause (*4*) it is provided that notwithstanding anything provided elsewhere in this Act or in any other law no document creating or purporting to create a complete usufructuary mortgage or the holding

or portion or share of the holding of an occupancy *raiyat* for a period exceeding or which can exceed 15 years or (*b*) a usufructuary mortgage of such holding, portion or share other than a complete usufructuary mortgage shall be admitted to registration nor shall any such document be received in evidence or acted on in any court or by any public servant.

By the amending Acts of 1928 and all usufructuary mortgages other than complete usufructuary mortgages and by 1938 amendments all other forms of usufructuary mortgages were to be treated as complete usufructuary mortgages and if their term exceed 15 years, those mortgages were rendered illegal by this provision. We are now adding to the list conditional sales and any other form of mortgage in which delivery of possession has been given. In order to make the law consistent, it is necessary to provide here that all these three classes (two are already there) should be placed in the same footing, namely, that if the term is more than 15 years, then they would be illegal and should not be accepted for registration in future. That is with regard to the main clause.

Now, we want to amend the proviso also in order to make the proviso consistent with the main section.

Mr. E. C. ORMOND: We shall have no objection as far as we have been able to see this amendment. In view of the fact that in the second half of the proviso the effect of it is expressly not to cut down the mortgages which have been entered into between 1928-1940, it certainly appears not to conflict with your ruling which you gave yesterday and with your ruling which you gave to-day. The only matter that I do not quite follow is the implication of the words in brackets in the third class of mortgages which were being inserted in section (*4*) of sub-section 26(*g*).

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The mortgages referred to in clause (*b*) is usufructuary mortgages of such holding, portion or share other than a complete usufructuary mortgage.

Mr. E. C. ORMOND: Therefore, the net result of it appears to be that all mortgages except usufructuary mortgages are to be forbidden to an occupancy *raiyat*. If that is the intention of Government——

Mr. PRESIDENT: I want to know if there is any objection to this amendment being moved.

Mr. E. C. ORMOND: Not on a point of order, Sir.

Mr. PRESIDENT: That is not the question. The question is whether you have any objection, because it has not been possible to give proper notice.

Mr. E. C. ORMOND: The position in regard to this matter is this. In the ordinary way, I would not have agreed to commit my party to accept the amendment which has been thrown at our heads in this manner, but in regard to this particular amendment and in view of what I have heard from the Hon'ble Minister, we are prepared to make an exception and not to oppose its being moved. But I would like to say that in future whether an amendment is good or bad we must have proper notice.

Mr. KAMINI KUMAR DUTTA: I object to it. It appears that the amendment is very comprehensive. At first I was inclined to accept it, but now I find my party cannot accept it.

Mr. PRESIDENT: I do not like to go into the merits at such a short notice. It is a complicated amendment and it has not been moved. So, it is not necessary for me to give any ruling over it.

The question before the House is: that clause 3, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 4.

Mr. PRESIDENT: Clause 4 stand part of the Bill.

Rai SURENDRA NARAYAN SINHA Bahadur: I beg to move that in clause 4 of the Bill, for the words "reduction of area" in line 4, the words "reduction of exactly similar area" be substituted.

The words "reduction of area" would have served the purpose if the areas were of a similar nature. The nature of the areas may not be similar; it may be different and there may be objections and dissatisfaction. Therefore, I propose that the amendment moved be accepted.

Mr. PRESIDENT: Amendment moved: that in clause 4 of the Bill, for the words "reduction of area" in line 4, the words "reduction of exactly similar area" be substituted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I oppose this amendment.

Mr. PRESIDENT: The question before the House is that in clause 4 of the Bill, for the words "reduction of area" in line 4, the words "reduction of exactly similar area" be substituted.

(The amendment was negatived.)

Rai MANMATHA NATH BOSE Bahadur: Sir, I [illegible] the first portion of the amendment which stands in my name. I shall, with your permission, move the second portion only.

I beg to move that after the proviso to sub-section (*1B*) of section 52 of the said Act, the following second proviso shall be added, namely:—

"Provided further that no Court shall decree any reduction of rent under this sub-section unless it is satisfied that there has been a decrease in the actual area of the tenure or holding since the rent previously paid was settled with reference to the area of the tenure or holding."

Now, Sir, at the time of the second amendment of the Bengal Tenancy Act, a proviso was added to clause (*a*) of sub-section (*1*) and it ran to this effect:—"Provided that no Court shall decree any reduction of rent under this clause unless it is satisfied that there has been in fact a decrease in the actual area of the tenure or holding since the rent previously paid was settled." The present amendment was at that time moved as a corrolary to or the proviso to sub-section (*1*) of clause (*b*). But at that time I withdraw it as the Hon'ble Minister gave an undertaking to consider this matter afterwards at the time when the next amendment would be brought forward. At the present moment, I find some amendment has been suggested to section 52, but this in my opinion does not come up to the mark. Therefore, I have proposed this. As a matter of fact, it is only a parallel proviso. In the one case it has been provided "in addition to rent," and in this case I have provided against any reductions of rent. The matter is practically the same. I, therefore, think, Sir, that I need not say much on this point, and I hope that the principle being the same, the Hon'ble Minister will be pleased to accept it.

Mr. PRESIDENT: Amendment moved: that clause 4 of the Bill, be renumbered as sub-clause (*1*) of clause 4 and the following be added to it as sub-clause (*2*), namely:—

"(*2*) After the proviso to sub-section (*1B*) of section 52 of the said Act, the following second proviso shall be added, namely:—

'Provided further that no Court shall decree any reduction of rent under this sub-section unless it is satisfied that there has

been a decrease in the actual area of the tenure or holding since the rent previously paid was settled with reference to the area of the tenure or holding.' "

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, the object of the amendment of section 52 was to give protection to the tenant against fraud being practised on him by a landlord by a change in the standard of measurement. The tenant is entirely at the mercy of the landlord where a change in the standard of measurement is concerned. Now, the amendment suggested by the Rai Bahadur would really neutralize the benefit which the amendment seeks to confer on the tenant.

In this view of the matter, Sir, I oppose this amendment.

Rai Sahib INDU BHUSAN SARKER: Sir, I rise to say a few words in support of the amendment moved by my friend Rai Manmatha Nath Bose Bahadur.

It gives the tenants the benefit no doubt; but it does not confer equal opportunity on the landlords. The tenants will have no difficulty in having their rents reduced. But protection should at the same time be given to the landlords so that there may not be any unjustified reduction in rent. Whenever any landlord seeks to increase the rent, an increase which is fully justified by an increase in the actual area of the tenure or holding under consideration, all sorts of handicaps will be placed and flimsy pretexts will be raised by the tenants. The Government should maintain an even balance between the two parties and should not provide undue opportunities to one, while denying the same to the other. Therefore, the law in this respect should be as unambiguous as possible and this provision should be added to the clause.

Mr. PRESIDENT: The question before the House is that clause 4 of the Bill be renumbered as sub-clause (*1*) of clause 4 and the following be added to it as sub-clause (*2*), namely:—

"(*2*) After the proviso to sub-section (*1B*) of section 52 of the said Act, the following second proviso shall be added, namely:—

'Provided further that no Court shall decree any reduction of rent under this sub-section unless it is satisfied that there has been a decrease in the actual area of the tenure or holding since the rent previously paid was settled with reference to the area of the tenure or holding.' "

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 4 stand part of the Bill.

(The motion was agreed to.)

Clause 5.

Mr. PRESIDENT: Clause 5 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in clause 5 of the Bill, in sub-section (*1*) (*a*) of the proposed section 168A, for the words "in the form of" in line 2, the words "having the effect of" be substituted.

Sir, this portion of the proposed section has a chequered history. It was first introduced in another place. It was then bad enough, but it was attempted to be improved by a last-minute amendment, but the improvement made it worse. So, when the Bill came up to this House, it was impossible to find any rational meaning in it. In the Select Committee, however, a slight improvement was made, but even now, as it stands, it is not very satisfactory. The clause as it stands has in it the words "whether in the form of a rent-decree or a money-decree" added by the Select Committee. This expression "in the form of" is highly misleading. It is based upon a misconception of what constitutes a "rent-decree" or a "money-decree." I beg to submit that there is no particular form for a rent-decree or a different form for a money-decree, so far as decrees for arrears of rent are concerned. It is, on the contrary, the legal effect of certain other factors that constitutes a rent-decree or a money-decree. There is nothing in the form of it. As for instance, if the entire body of landlords do not join in a suit for rent either as a defendant or as a plaintiff, it becomes in effect a money-decree. If all the tenants are not represented in the suit, the decree becomes a money-decree. There are a number of circumstances which may even convert a good rent-decree into a money-decree. In any case, the thing does not depend on the form of the decree. It is the legal effect of many factors that counts. The distinction is of immense practical importance. In a sale in execution of a decree which has the effect of a rent decree, the entire tenure or holding passes to the purchaser. But in a decree having the effect of a money decree, the sale only effects transfer of the right, title and interest of the judgment-debtor. Serious complications may arise if correct phraseology is not used. In these circumstances, Sir, I have proposed a verbal alteration. After the amendment the passage will stand like this:—

"whether having the *effect* of a rent-decree or money-decree."

I believe, Sir, this is the approved phraseology as used in connection with this subject. So, in the hope of slightly improving matters, I have hazarded this amendment.

Mr. President: Amendment moved:

That in clause 5 of the Bill, in sub-section (*1*) (*a*) of the proposed section 168A, for the words "in the form of" in line 2, the words "having the effect of" be substituted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, it is only a drafting amendment and Government are prepared to accept it.

Mr. PRESIDENT: The question before the House is: that in clause 5 of the Bill, in sub-section (*1*) (*a*) of the proposed section 168A, for the words "in the form of" in line 2, the words "having the effect of" be substituted.

(The amendment was agreed to.)

Rai MANMATHA NATH BOSE Bahadur: Sir, I beg to move that in clause 5 of the Bill, in clause (*a*) of sub-section (*1*) of the proposed section 168A, the words "moveable or" in line 11, be deleted.

Sir, in this connection I desire to say that I have said something in my minute of dissent against the provision provided for in sub-clause (*a*) of clause 5. I am of opinion that the measure proposed will not benefit the tenant and this will rather ruin him as frequent suits will be brought. It is within my knowledge, Sir, that by attachment of the movables the decree-holder's dues are realized and the holding also is saved. I know of cases where by the sale of certain trees the decree-holder's dues were fully realized. If the tenure or holding be sold first of all, will it not be depriving the tenant of the means of his subsistence? It may not be very difficult for a tenant to purchase movables such as utensils or paddy in order to replace the movables sold by the decree-holder, but if the tenure or holding be sold, will the tenant be able to purchase another tenure or holding? I find it stated in the Statement of Objects and Reasons that "considerable harassment is caused to tenants by the sale of movables in execution of rent-decrees." In my opinion, Sir, that harassment can easily be borne and is surely far less than the harassment to be undergone when the very property is sold. In case of landlords, the Government is entitled to put up to sale for arrears of revenue any estate under Act XI of 1859, and if the sale proceeds prove insufficient to cover the arrears of revenue, the Government can also issue a certificate for the balance against the person and the property of the defaulter. If this is so, how is it that the defaulting landlord himself will have no such power?

Then, Sir, let us consider the case of a landlord who has a tenure-holder under him and who has not paid rent to the *malik*, i.e., the proprietor of a revenue-paying estate. The landlord files a rent-suit

for four years and gets a decree for rent. In the meantime the landlord's interest is sold at a revenue sale and the purchaser of the entire estate avoids the tenure under section 37 of Act XI of 1859 and takes possession of the tenure. How could the outgoing landlord execute the decree without attaching the movables and other properties of the tenure-holder? Examples can be cited, but I do not propose to take up the time of the House by citing these instances. I apprehend that the result of this legislation will be mostly to compel the landlords to bring suits for arrears of rent of one year only and in several instances they may not be able to realize anything. And this will be disastrous to the tenants. I, therefore, request the Hon'ble Minister to consider this seriously and to accept the amendment suggested.

Under these circumstances, I hope that these two words "movable or" will be excluded from the Bill, and I would once more appeal to the Hon'ble Minister in charge of the Bill to accept my amendment.

Mr. PRESIDENT: Amendment moved: that in clause 5 of the Bill, in clause (*a*) of sub-section (*1*) of the proposed section 168A, the words "movable or" in line 11, be deleted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I would confess that my personal views are entirely at one with those of the Rai Bahadur, because as was said by an experienced revenue officer that if you sell the utensils of a tenant, he can purchase new utensils and cook his food, but if you deprive him of his holding he will have nothing to cook. But here we have got to go by the opinion of the tenants' representatives. This question of the sale of movables was discussed more than once in this House and elsewhere in connection with the deletion of section 158A in Chapter XIIIA of the Bengal Tenancy Act, which relates to the landlord's certificate procedure. The unpopularity of the certificate is largely due to the fact that the certificates are executed mostly against movable properties of the tenants, and the tenants' representatives thought that it should be against the holdings rather than against movables. In that view of the matter, out of deference to the wishes of the tenants' representatives, that Government agreed to put in this amendment.

Sir, I oppose the proposal of the Rai Bahadur.

Mr. PRESIDENT: The question before the House is that in clause 5 of the Bill, in clause (*a*) of sub-section (*1*) of the proposed section 168A, the words "movable or" in line 1, be deleted.

(The amendment was negatived.)

Mr. KHORSHED ALAM CHOWDHURY: I beg to move that in clause 5 of the Bill in the proviso to sub-section (*1*) (*a*) of the proposed section 168A, after the word "tenancy" in line 2, the words "of temporarily-settled estates" be inserted.

Mr. PRESIDENT: Amendment moved: that after the word "tenancy" in line 2, the words "of temporarily-settled estates" be inserted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Government are prepared to accept this amendment.

Mr. PRESIDENT: The question before the House is that after the word "tenancy" in line 2, the words "of temporarily-settled estates" be inserted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 5, as amended, stand part of the Bill.

(The motion was agreed to.)

Mr. PRESIDENT: Clause 6 stand part of the Bill.

Rai MANMATHA NATH BOSE Bahadur: Sir, I beg to move that clause 6 of the Bill be omitted.

I am opposed to this clause inasmuch as it tries to give further retrospective operation to a provision previously made. According to Bentham, "security of right of property is one of the essentials in legislation." Sir, the Hon'ble Minister in charge of the Bill in answer to my objection said on the floor of this House on the 17th May last, "that ordinarily retrospective effect should not be given to legislation because it takes away the vested rights of persons and it is against all canons of legislation; that unless under very special circumstances retrospective effect should be avoided." I am anxious to know why it has become so very necessary to take away forcibly the vested rights of a class of people who has incurred the displeasure of Government simply because they lent money in time of need and who are equally entitled to claim legislative protection.

With these remarks I leave the matter entirely in the hands of the members and of the Hon'ble Minister, and I hope they will be able to accept it.

Mr. PRESIDENT: Amendment moved: that clause 6 of the Bill be omitted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: In abstract principle I entirely agree with the Rai Bahadur, and I stick to the opinion which I expressed on a previous occasion. But it is an exceptional case. The proposal is to bring this Bill into line with the main Bengal Tenancy Act of 1938. I do not think there is much objection to giving retrospective effect just to bring it into line with the Bengal Tenancy Act.

Mr. PRESIDENT: The question before the House is: that clause 6 of the Bill be omitted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 6 stand part of the Bill.

(The motion was agreed to.)

Mr. PRESIDENT: The question before the House is: that the short title and the preamble be added to the Bill.

(The motion was agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that the Bengal Tenancy (Third Amendment) Bill, 1939, as settled in the Council, be passed.

Mr. PRESIDENT: Motion moved: that the Bengal Tenancy (Third Amendment) Bill, 1939, as settled in the Council, be passed.

Khan Bahadur NAZIRUDDIN AHMAD: I rise to support the motion, but in doing so I shall place before the House and the Hon'ble Minister in charge certain difficulties under which a complicated Bill like this has passed through the different stages. The Bengal Tenancy Act is an extremely complicated Act. It has been amended from time to time as exigencies or difficulties have arisen. After the amendments of 1928 and 1938 serious difficulties have arisen and this Bill is to remove only some of those defects and on the whole it is an improvement on the existing state of affairs. But even in this Bill there are defects which will have to be considered by another amending Bill. The defects which are still remaining are these:—In clause 5, sub-clause 1(*b*), it is provided that in case of sale of a whole holding, the purchaser shall be bound to pay the deficiency between the purchasing price and the decretal amount with cost. This sub-clause has been conceived with a very simple idea, that all rent suits are brought by a sole landlord or an entire body of landlords in which all the co-sharer tenants have been made parties and on the impression that decrees are always for the entire period of arrears. With this simple idea this clause has

been conceived. I beg to point out that in the year 1938 we made an important change in the law, namely, that where the arrears amount to four years or three years or two years, we have allowed the landlords to institute a suit not for the entire period in arrears but for part of the period. In case there is an arrear of four years, the landlord may institute a suit for one year. Rent for three years in that case will not be within the suit. According to the present Bill clause, the landlord, executing the decree will have to sell the whole holding and the purchaser will be bound to pay the deficiency, if there is any, between the decreetal amount with cost and the price of the holding and rent from the institution of the suit to the date of the confirmation of the sale. The three years' arrears, not included in the suit, will not be paid and cannot be realized. If the landlord institutes a fresh suit for the remaining three years, there will perhaps be no remedy. If he tries to realize the amount by executing the decree, he will have to sell the whole holding— a holding which has already been sold. He will have to pursue a holding which has already passed to a third person. This is one difficulty.

There is also the question of several pending decrees. There are cases of decrees above Rs. 500 which will not be barred by limitation for 12 years. Within 12 years there will be an accumulation of three or four decrees and in case one of these decrees is executed, there will be difficulty as to the realisation of the other decrees. Then it is possible that several co-sharer landlords will execute different decrees for different portions of arrears and for even different periods. There will be serious complications with regard to the realisation of the decrees. This clause has been inserted to prevent victimization of particular tenants by landlords. The usual trick is to execute the decree against the personal properties of a tenant who is not in the good books of the landlords excluding those of the other co-tenants. I however respectfully submit that our attempt has successfully failed. I bring this to the notice of the Hon'ble Minister, so that at the next session he might try to improve the situation. Even after the amendment, the landlord will be free to victimize anyone he likes. The landlord will simply institute a suit against the very tenant whom he wants to victimize, omitting the other co-tenants whom he wants to favour. Possibly, he would privately realise a portion of his dues from those favoured co-sharer tenants and concentrate his dues upon one selected tenant. That is perfectly legal. Under the present amendment, the landlord will be bound to sell the entire tenure or holding. In effect, he will merely pretend to sell the entire tenure or holding. I say "pretend" because though he will try to sell the entire tenure or holding, but the decree being a money decree, only the right, title and interest of the judgment-debtor alone will pass. The sale of the entire

tenure or holding in such a case will be a pretence and a farce. The effect of this will be that the landlord may, if he likes, institute a suit against any co-sharer tenant he pleases and execute the decree in reality against him. Although he pretends to sell the entire tenure or holding, that is pretend to distribute the liability among all co-sharer tenants, the effect of this would be that the property of the selected tenant alone, as before, will pass. The victimization, which the clause pretends to banish, will proceed merrily as before and in full force. The remedy by sale of the entire tenure or holding will be inoperative and meaningless. I submit in a complicated measure like this we had neither the time nor the facilities to submit proper amendments. I confess before this House our inability to give adequate time and consideration to this important subject. Considering the importance of the measure, the time at our disposal was utterly meagre. The House has been thinking and thinking hard and we are unable to suggest an effective remedy on the spot and the way in which the Bill has been rushed through the House, is simply alarming. The subject is extremely difficult. Lawyer members of this House who have practical experience of conducting cases and who are familiar with the complications of rent suits and rent decrees and consequent proceedings, will appreciate the difficulty of drafting or improving a measure like this. I would suggest that at the next session the defects pointed out as well as many other defects which are more obvious will be duly considered and remedied by a fresh Bill.

I believe another amendment is inevitable and probably that amendment will lead to and require other amendments. I have found in the printed copy of the latest edition of the Bengal Tenancy Act serious mistakes. I believe a large number of copies has been sold to the public and the public who have paid good price for the Government edition will get an incorrect version.

I would draw attention of the House to Section 148(*b*) at page 190 of the 1939 edition of the Act. In this there is a mention of certain orders and rules of the Code of *Criminal* Procedure. Obviously the Code of *Civil* Procedure is meant. I have carefully verified it. This section was amended, but the correct version is "the Code of 'Civil' Procedure." I am sure a careful perusal of this Act will disclose more errors. There are a number of inconsistencies in the Act. I think a Committee should be set up to investigate into the inconsistencies to which the rapid amendments have given rise and unless that is done, serious troubles be experienced in administering the Act by the Civil Courts. I speak from actual practical experience of the helplessness with which lawyers face the Act and its complications. These complications are simply remarkable, and the handling of them by the department is also very remarkable. I appeal to this House to join in my

appeal to the Hon'ble Minister to devote more attention, more expert attention, to this aspect of rapid and piecemeal amendments and bring about a very comprehensive Bill to improve this miserable state of affairs.

Sir, this Bill has been specially introduced to remove a certain gap, namely, the provision for mortgages by conditional sales with delivery of possession between 1938 and the present time. That was the specific object with which this amending Bill was brought. The most important thing to be provided for in this Bill, therefore, was obviously the provision for the period between 1938 and 1940. But by a strange and unpardonable carelessness this most important thing was omitted. But fortunately a member of this House, Khan Bahadur Shamsuzzoha, found it out. He submitted a very small but a very important amendment. That was to supply an obvious gap. But it was also found by another member of the House that this attempt to fill in this obvious gap by the amendment was beyond the scope of the Bill. On that, Sir, you were pleased to rule the amendment of the Khan Bahadur out of order. We do not question your ruling. I respectfully submit that your ruling was right. It is to be regretted that the very object of the amending Bill has been frustrated by a serious oversight on the part of the authorities concerned with the drafting of the amendment. Though it is admitted on all hands that the mistake was an obvious one, for technical reasons, you, Sir, were bound to reject it. I beg to submit once again, Sir, that more care and attention should be devoted to draftsmanship in future.

I do not like any more to waste the valuable time of the House, but this much I would say that on the whole this Bill is an improvement on the existing law, though the improvement is not up to the mark and might, with ordinary care, have been better and effective. The tenants for whom the Government have undertaken this legislation deserve more attention to the technicalities and draftsmanship.

With these few words, Sir, I support the third reading of the Bill.

Mr. H. C. A. HUNTER: Mr. President, Sir, I beg to support the motion for the passing of the Bill.

It is true that the amendment of sub-section (*1a*) of section 26G has the result of extending the retrospective effect in the case of certain types of mortgage, but the retention of the sub-clauses in sub-section (*5*) I think have a substantially mitigating effect on this. While my Party is always very strongly opposed to any legislation smacking of expropriation or of retro-activity, the effects of retro-activity in the present case have been toned down by the retention of the clauses in the original Act in such a way that we can conscientiously support this Bill. We are opposed not only to the principles of expropriation and

retro-activity but also because from a practical point of view they make for instability of life in the province. It is quite wrong that a man should wake up one morning and find that a mortgage which he considered perfectly sound and which was entered into under the ægis of the law—which was found legal and justifiable yesterday—should become void as from a certain retrospective date. That cannot but have a deleterious effect on the life of the province.

With these few words, Sir, I beg to support the third reading of the Bill.

Mr. KAMINI KUMAR DUTTA: Sir, on behalf of my party, I do certainly support the principles underlying the Bill, though it is our considered opinion that the Bill might have emerged in a much better form if more care and attention had been bestowed on it.

For some time past the agrarian law of this province is being practically revolutionized, with the result that radical changes have been effected in those laws. Not only that. It at the same time affects the economic structure of the society as well. So, the necessity for being very careful and being very circumspect in enacting these agrarian laws cannot be over-estimated.

Now, this particular Bill not only deals with matters relating to the relationship of the landlord and the tenant, but also with matters concerning the money-lender and the agriculturist borrower. Section 26G practically relates to matters arising between the lender and the borrower. At the same time, in enacting these laws one fact is forgotten, that in changing these agrarian laws and in effecting radical changes in such laws, the laws relating to transfer of property, to contracts, and to other matters, are also vitally affected. Because this fact is generally ignored, it has been remarked by the Hon'ble Judges of the High Court very often—why even very recently—that even in the case of some of the amendments made very recently, viz., in 1938, which were not laid before the Governor-General for his assent as is required under the provision of section 107 of the Government of India Act, 1935, there is every reason to think that some portion of the amendments was absolutely *ultra vires*. Hence, the difficulty arises. Because the law is there, people naturally believe that the law is a perfect one. But when he goes to seek his remedy in a court of law, the courts, he finds to his surprise, declare that though the law had been passed by the Legislature, in practice, it is ineffective, and that the petitioner cannot get any relief under that particular Act. In this connection, I need only reiterate the complaint which has been made by my friend Khan Bahadur Naziruddin Ahmad that in the drafting of this amending Bill, of which we have had a plethora during the last

few months of the last year and the current year, there are serious defects, defects which could have been avoided by better draftmanship.

It may be suggested that it is also the duty of the members of the House to see that there is no defect in the Bill, but, Sir, we must confess that in the hurry and in the shortness of time in which we have had really to finish our work, it was not humanly possible for us to detect all the defects, which, in fact, may strike us a few days after we have actually passed the law in question. It is strictly the duty of those who are entrusted with this important piece of drafting, because they must be experts employed by Government for the purpose. I say, Sir, it is their duty, and I must say, Sir, that they ought to be very careful. They should be very careful in the future while drafting such Bills, so that these apparent defects may not appear.

Regarding this particular Bill, Sir, while discussing the matter amongst ourselves and amongst the members of the different groups, we found that the drafting in many places was not at all happy. But we thought that it would be useless to quarrel over that. As we did not differ as to the principle underlying the Bill, we thought there would be no harm to let the Bill go to the anvil of the Legislature, because we were quite sure that sooner or later the iniquities and the defects of the Bill would be detected in the course of its application in practice and that we would have a spate of amending Bills in quick succession. If the main defect noticed in the Bill be not rectified by an amending Act in the next session, the most important provision regarding section 26G would be found inoperative. Though we have tried to give some relief to those *raiyats* who entered into usufructuary mortgages, it is very doubtful whether they would really be able to get the relief, sought to be given to them here, from the courts. Certainly, Sir, we do anticipate—rather I may say we apprehend—some more amending Bills.

I shall not dilate further on the other factors in the Bill which are unsatisfactory. As to one of the defects I have already had my say, and I did point it out at the time when the amendment regarding clause 3 was being discussed in this House. But to me it appears, Sir, that other defects will appear in relation to the amendment of section 168A. It is bound to appear and for such reason my Party at one time was almost opposed to the whole of the Bill; but on second thoughts, we decided that to oppose it would be really injuring the very object of the Bill. So, we thought that it would be much better to support the amendment, because we were confident that the defects would be transparent very soon and that a further amendment would be forthcoming.

I would again only repeat our contention that we expect that in future there should be better and more careful drafting of these amending Bills.

However, Sir, on behalf of my Party, I accord my support to this Bill.

Mr. E. C. ORMOND: Mr. President, Sir, the views of this Party on this side of the House have been stated to-day clearly by our leader, Mr. Hunter.

There is, however, Sir, only one point which he did not go into, and which would not be necessary for me to go into but for some of the speeches which have been made on this occasion and but for the fact that we, Sir, consider it of some importance.

Honourable members who have spoken on this third reading have referred on different occasions to the aspect of future legislation on this topic, that is to say, Tenancy Law in Bengal. We, Sir, have a feeling that there may be some danger in the course which is now becoming fashionable in legislation in this province. We have some fear that it would not be beneficial to the community as a whole that amending Bills should be brought in almost every session. (Cries of "Hear! hear!" from the Congress Benches.) We have also the feeling, Sir, that stability and confidence in the continuance and state of the law which is known to exist may have more value than an elusive search after perfection. And, Sir, I would make the appeal to Government that they may carefully weigh the advantages and the disadvantages of the two courses that will be open to them hereafter. Supposing they find defects in the present Bill, supposing they find defects in the law as it exists generally under the parent Act, I mean the Bengal Tenancy Act of 1885, I would appeal to them to weigh the advantages and the disadvantages of the two courses open to them. The one is at once to bring in a petty—not necessarily a petty—but a restricted amending Bill, as soon as a defect in one particular section is noticed, and then after two or three months, when another defect in another section will be noticed, another Bill may be brought forward before the Legislature. That is one course. The other course is that they may put these matters in a file in Writers' Buildings; they may make enquiries among the people who go about in rural life, who go about throughout the province, and they may consider how certain things are worked out, and they may consider also the best way of drafting some amending Act in order to avoid the difficulties which have been shown. I would suggest if I may that they may seriously consider whether it will not be more comforting to the tenants to know what the law is to-day and they, the tenants, may go to sleep to-night knowing that the law will be the same to-morrow and they may go to sleep the day after to-morrow knowing that the law will be the same rather than they should have so much solicitous attention in order to correct this or correct that from one moment to another as a result of which there is danger not only that the illiterate tenantry, but their

legal advisers also may have considerable difficulty in appreciating what the law is to-day. And to appreciate what will be the law to-morrow will be something which will need the prophetic capabilities of a gambler.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: First of all, I would thank you, Mr. President and the members belonging to all sides of the House for the co-operation and help that I have received in piloting this complicated measure within a rather short time. I very much appreciate the remarks that have fallen from my friend, the Leader of the Opposition, Khan Bahadur Naziruddin Ahmad and Mr. Ormond regarding hasty legislations and the defects that might have crept into the Bill. In a democratic constitution I am afraid, more attention is paid to quantity than to quality and this I am sure, cannot be denied. Left to myself, probably I would have taken my own time to examine every clause of the Bill, would have the clauses carefully analysed by Government experts and introduced the Bill in this House or elsewhere at my leisure. But nowadays we are very anxious that the existing order should be modified, changed and adapted to the rapidly changing circumstances and that the agriculturists should be given larger rights as early as possible. It is, therefore, absurd to suggest that there should be revolution and order simultaneously. The two things do not go together. Order and evolution may go together but certainly not order and revolution. Though I greatly appreciate the suggestions that have been made by different members and personally speaking though I hold the same view, I maintain that it is impossible for any Government to resist popular demand for speedy legislation and at the same time to pay adequate attention to all the implications of such a legislation. I do not, however, take the same pessimistic view as some of my friends have taken, specially Mr. Ormond, about the changes that we have made in the Bengal Tenancy Act. The main Act of 1938 too was considered to be a very hurried legislation but fortunately the Act which has been in force for the last two years has not been found by the Judiciary to be unworkable nor it is causing serious difficulties in its operation.

Khan Bahadur NAZIRUDDIN AHMED: But many difficulties have arisen..

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Difficulties will arise and I hope my honourable friends of the legal profession will profit by them, but difficulties are to be overcome and have been overcome very successfully. The whole ideology of agrarian legislation is undergoing a rapid transformation and we have got to adapt the tenancy legislation to the changing views of the people. The Bengal Tenancy Act was placed first on the Statute Book as early as 1859,

then it was subsequently amended in 1885—the principles were practically the same, with slight modification and changes in details; but now some of the fundamental principles are undergoing very great changes. Naturally, the amendments which are being introduced to bring about these changes are appearing rather revolutionary to some of my friends opposite. Even though they profess that they stand for socialistic legislation, they are beginning to shudder at the changes. I hope that time alone will show that these changes are actually not so revolutionary as they are supposed to be. They are really attempts to bring about an adjustment of relationship between the landlords and tenants and by these amendments we are warding off serious danger, I mean an open clash between the landlords and the tenants. I quite realise that people having vested interests do not at the beginning relish these changes but time will come when they will appreciate the justification of these modifications and will thank Government for what they have done.

Mr. PRESIDENT: The question before the House is: that the Bengal Tenancy (Third Amendment) Bill, 1939, as settled in the Council, be passed.

(The motion was agreed to.)

Reference in appreciation of the services of retiring members of Council.

Rai SURENDRA NARAYAN SINHA Bahadur: Before the prorogation of the present session of the Council, Mr. President, Sir, I must beg leave to bid you all good-bye. My present term along with that of some other members expires on the 4th April next, so there will be no further opportunity for our meeting in this Council. I stood for re-election to one of the vacancies to be caused on the 4th April but it was no mystery of the ballot box but rather its unusual absence that decided my fate to be thus kept out by the very narrow margin of a fractional vote. To-day I would have liked not to bid you good-bye but say *au revoir* at the time of parting as I had a great desire to be of greater service to the country. The uniform courtesy and unfailing friendliness with which I was treated by all section of the House has made our separation so painful. From the day I moved for presenting an address to the Governor on his address to the joint session of the two Houses and thus raising a debate on the policy underlying it, I was successful in having through you, Sir, the ear of this distinguished and august House. I ventured to undertake a very much needed piece of social legislation, viz., the Abolition of the Dowry System in marriage the passing of which has been garrotted by eleventh hour resolution of the Government. It was natural for me

to see it through this House before I retired. It will be for others to take up the work which must be passed in some shape or other in the near future. In the amendment of tenancy and interest laws of the land, I have tried to make my humble contribution. Whether my efforts have sometimes succeeded and sometimes failed is neither here nor there. All I remember to-day at the time of parting is that I enjoyed the confidence of all sections of this House and I received sympathy and co-operation in other measures brought by me before this House from my honourable friends and colleagues and the Cabinet and my feeling to-day is one of gratitude to all, and especially to you, Sir, at whose hands I have met with nothing but generous treatment as a colleague. I shall always treasure these memories of our common endeavour for the good of the nation. With these words, Sir, I shall thank you for giving me this opportunity for expressing my gratitude to you all and to bid you farewell at the end of my present term.

Khan Bahadur Maulvi MUHAMMAD IBRAHIM: মাননীয় সভাপতি মহাশয়, আমার কার্য্যকাল আগামী পরশ্ব শেষ হোয়ে যাবে। আমি বিগত ইলেক্‌শনে নির্ব্বাচিত হোয়ে আসতে পারি নাই। অবশ্য তার জন্য অন্যান্য কারণ থাক্‌লেও আমি সব সময় বিবেককে বিসর্জ্জন দিয়ে মিনিষ্টারদের পদাঙ্ক অনুসরণ কোরতে পারি নাই—এইটাই একটা প্রধান কারণ। অবশ্য আমার প্রতি তাঁদের একটু বিরক্তির ভাব ছিলো। নবাব মোশারফ হোসেন প্রমুখ দুই চারজন ভদ্রলোক মিনিষ্টার আমাকে যথেষ্ট অনুগ্রহ কোরেছেন। কিন্তু বগুড়ার Khan Bahadur Muhammad আলীর আওতার মধ্যে থাকায় সুরাবর্দ্দি প্রমুখ কোন কোন মিনিষ্টারের মতের সঙ্গে আমার গরমিল থাকার জন্য আমাকে তাঁরা দেখ্‌তে পারেন না। এবং গত ইলেকসনে পাবনার লীগের নামে গুণ্ডামী, ভণ্ডামী ও ধাপ্পাবাজী ক'রে আমার প্রতি যদিও তাঁরা অত্যাচার কোরেছেন তারজন্য আমি গতকল্য কিছু কড়া কথা বলেছি তবু আমি তাঁদের কাছে ক্ষমা চাইছি কেননা এটা আমার শেষ বিদায়।

এই হাউসের মেম্বরগণ ও প্রেসিডেন্ট মহাশয় আমাকে যেরূপ সহানুভূতির চোখে দেখেছেন তার জন্য আমি তাঁদের নিকট অবশ্যই কৃতজ্ঞ। মিনিষ্টার মহাশয়রা যদিও আমার প্রতি অবিচার কোরেছেন তথাপি আমি তাঁদের নিকট অনুরোধ কোরছি তাঁরা যেন আমাকে ক্ষমা করেন। আমার বয়স হোয়েছে, এখন আমার বিশ্রামেরই সময় বলা যায়। সুরাবর্দ্দি, সাহাবুদ্দিন প্রভৃতি গুণ্ডামীর প্রশ্রয় দিয়ে অনুগ্রহ কোরে আমাকে বিশ্রাম লাভের সাহায্য কোরেছেন সেজন্য আমি তাঁদের ধন্যবাদ দিচ্ছি, যদিও এরকমভাবে বিশ্রাম করবার আমার বড় ইচ্ছা ছিলো না। তাঁরাই জোর কোরে আমাকে এখান থেকে সরিয়ে দিলেন। (Loud laughter amongst the members of all the Groups.) তবে দেখা যাবে next election এ। আমি আশা করি আপনাদের সঙ্গে বেশী সময় বিচ্ছিন্ন হোয়ে থাকবো না। একটা আশা কোরছি, আমি আবার আসতে পারবো। আপনারা আশীর্ব্বাদ কোরবেন। আপনাদের আশীর্ব্বাদ থাক্‌লে আমি জয়যুক্ত হবোই। এই আমার বিশ্বাস। আপনারা ঈশ্বরের কাছে প্রার্থনা করুন যেন আমি আসতে পারি। এই হাউসের মেম্বর Khan Bahadur Asaf Khan ব্যতীত অনারেবল ফজলে হক্ সাহেবই আমার পুরান পরিচিত মেম্বর বটে। তাঁর অনেক রাজনৈতিক ডিগ্‌বাজী সত্ত্বেও তিনি যে একজন প্রতিভাশালী সমাজ হিতৈষী ব্যক্তি সে সম্বন্ধে সন্দেহ নাই। তথাপি কতকগুলি ধনীক মন্ত্রীমণ্ডলীর আওতায় প'ড়ে তাঁর কর্ম্মশক্তি পঙ্গু হ'য়ে পড়েছে। তিনি

বাঙ্গলায় ধাপ্পাবাজী লীগের নামে অনেক কুকর্ম্ম করছেন; তাঁর স্বাধীনতার বিলোপ হয়েছে। ক্ষেত্রের মহোদয়গণের নিকট অনুরোধ তাঁরা এই ধাপ্পাবাজী লীগের অনুসরণ না ক'রে প্রকৃত দেশহিতকর যে লীগ তা'র অনুসরণ করুণ। আমার এই বিদায় বেলায় আপনাদের নিকট এই অনুরোধ। আবার আমি আপনাদের নিকট ক্ষমা চাইছি।

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Mr. President, Sir, the Council Session is going to be prorogued in a few minutes' time. This prorogation has more significance than the previous ones, because one-third of the members of this House are going to retire in a couple of days' time. In this connection I may take the opportunity to record the appreciation of this House for the services rendered by those who are going to retire from the day after to-morrow. I may mention here the name of my old friend Rai Satis Chandra Mukherji Bahadur. He had been in the previous Council and I had the honour to work with him both in this House and in the previous one for about 10 years. With his vast experience as a lawyer, I must admit, he was very helpful to the party he used to belong, particularly in suggesting amendments of the Bill which was considered in this House. His suggestions had been of great help to my party, and I cannot but appreciate the services so rendered by him.

Rai Surendra Narayan Sinha Bahadur is also going to retire. Unfortunately he will not have the opportunity to finish the social legislation which he has undertaken and which is of real benefit to the people. I hope some of us will take up the work of reviving the legislation. Though sometimes he dissociated himself from the party, many times he joined with our party and for that we must appreciate his work and thank him for the services and help rendered by him to our party.

Sir, in this connection, I might say that the Leader of the European Group, Mr. Hunter, though not retiring from the Council on the expiry of his term of office, is going to retire once for all from India, and for that we cannot but express our thankfulness to him for his able work in the interest of his party and also in the interest of the House as a whole. As a matter of fact, there have been occasions when he has shown his independent spirit by not following the dictates of other parties or persons. He has shown his independence by holding different views altogether different from that of the Coalition Party in this session. I cannot but thank him for this—his independent spirit.

Sir, I would be failing in my duty if I did not in this connexion mention the name of my friend Mr. Saileswar Singh Roy, who is also going to retire in two days' time. We shall indeed miss him very much.

With these remarks, Sir, I appreciate the valuable services rendered by such distinguished gentlemen, whom we shall not have the opportunity of meeting again in this Council in the near future.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to associate myself with the sentiments of regret that have been expressed by the previous speakers. Government will certainly feel the loss of the help and co-operation of the gentlemen who are going to retire from this House.

In this connexion, Sir, I would like to make a special reference to my esteemed friend Mr. Hunter from whom as Leader of the European Group, Government have received very great help, for which I am sure he will carry away with him the good wishes of all the sections of the House, and I hope that in his retirement he, too, in his turn will not forget the Bengal Legislative Council, of which he had been a member for some years. (Cheers.) I also hope that he will carry with him a pleasant memory of the period of his association with this House. (Cheers.)

Mr. KAMINI KUMAR DUTTA: Sir, I also associate myself on behalf of my party and on this occasion with what has been said by the previous speakers. I only wish to add this that in public activity, in public work, we often come in touch as friends and a tie is established between us thereby. But it so happens that again we have to separate. I would only say this much in respect of those of my friends who have not been re-elected as members of this Council that it ought not in any way to stand in the way of their public activities for the good of the country. This is not the only forum where we can engage ourselves for the good of the people or for the good of the country. Personally speaking, I should say that I think that our activities here are of a narrow scope. Indeed, there is a vast field outside where it requires the best services of all of us for the good of the country. And I should only desire that those of us who have not been returned here should not think that their public activities ought to be confined to the Legislative Chamber only. Rather I would request them to see that the energy which they have and the intelligence which they have exhibited here are devoted to the uplift of the poor masses, for the uplift of our fellow-countrymen and for the good of our Motherland (Cheers.)

Rai Sahib INDU BHUSAN SARKER: Sir, I for my part also fully associate myself with the appreciation expressed by the previous speakers, and, especially by the Raja Bahadur of Nashipur. Personally, I am really grateful to Rai Surendra Narayan Sinha Bahadur, who really helped me on many an occasion and gave me

his valuable and sound advice on many matters. I once again express my heart-felt gratitude to the Rai Bahadur, in particular.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I take this opportunity of associating myself with the sentiments of appreciation for the retiring members expressed from all sides of the House.

We certainly feel the loss of the retiring members with whom we have worked so long in close co-operation.

The sense of bitter opposition which is evident in a more virile House is commendably absent in this House. Even in the opposition of the Congress in this House there is the tone of co-operation. While opposing, they have always been actuated by a sense of duty and a sense of co-operation.

So far as the Coalition Party is concerned, it began with a blind support of the Government in every matter; but gradually a sense of isolation crept into the party, and the party shook off its lethargy and began to think of amendments to remove the defects in Government Bills and the sense of awe and veneration of a Government Bill gradually wore off. Our amendments, however, were not very much favoured by the Government but had to be gradually accepted by them. We are moulding the legislative policy of the Government in party meetings and in the House and our utility is being grudgingly recognized by the Government. Sentiments of appreciation of this independent spirit of the Coalition Party in improving many defective clauses of Government Bills, have been forthcoming even from the Opposition—the Congress Party.

Mr. KAMINI KUMAR DUTTA: Certainly it is, as it should be.

Khan Bahadur NAZIRUDDIN AHMAD: Such independence of the Coalition Party, even though only occasional inside the House, goes to show that we are not blindly supporting the Government in anything and everything. (Cries of "Hear, hear" from the Congress Benches.) The fact that there are no Ministers from this House gives us a sense of aloofness and detachment which is generating a sense of independence in our minds. We have now begun to discriminate and to support the Government where such support is necessary and justified. But our Opposition really works outside the House and may be seen through the large number of improvements effected by us in some recent Government Bills.

So, the close of this session marks the beginning of an era of detachment and independence exhibited by the Coalition Party in many subtle and invisible ways. (Cries of "Hear, hear" from the Congress Benches.)

Sir, this session is memorable also from another point of view, and I hope my friends of the Congress Party will excuse me for mentioning the matter. It marks a welcome change in the Congress Party in their attitude to the European members. We know, Sir, that the European Party has been blamed by them, in season and out of season, for always being wrong. But to-day, on the last day of this session, the European Party has been discovered by them to have acted at least once in the right direction, because the Congress Party has thought it fit to-day to vote for and with them *en bloc*.

Mr. LALIT CHANDRA DAS: You are wrong there.

Khan Bahadur NAZIRUDDIN AHMAD: On this point we were wrong because we were defeated but we were right on every other occasion. (Laughter.)

For many reasons, Sir, this session is memorable, and also for the fact that the two parties—the Congress and the Europeans—who have fought for nearly three years have been brought to the same lobby by an act of God. (Laughter.)

We devoutly hope, Sir, that, instead of blind opposition, the two parties should try to understand each others' view-point and appreciate one another for the benefit of the province as a whole.

With these words, Sir, I heartily thank those members who are departing us, each one having done signal service in his own sphere.

With regard to an outgoing member from our side, viz., Khan Bahadur Mohammad Ibrahim, I am not only sorry that we shall miss him but that we shall miss his brilliant repartees in his old age. Though he is old, he is young in spirit. He has said that he would try to come back to this House by some means or other. Failing that, at least let us hope that he would live long enough for the next 9 years and return to this Council, and I trust that he will also bless us with long life and save seats so as to enable us to enjoy his genial company once again after 9 years.

With these few words, Sir, I associate myself with what has fallen from other honourable members on this topic.

Mr. PRESIDENT: Order, order. The business of the Council for the present session is now over. When the House assembles again for the next session, many of the familiar faces will not be seen in this Chamber as their term of office as members of the Legislature will expire with effect from the 4th of April, 1940. All these retiring members offered themselves for re-election but the caprices of the ballot-box have kept out as many as eight of them, including Khan Bahadur S. Fazal Ellahi, Nawabzada Kamruddin Haider, Khan

Bahadur Maulvi Mohammad Ibrahim, Mr. H. G. G. Mackay, Rai Bahadur Satis Chandra Mukherjee, Mr. H. P. Poddar, Mr. Saileswar Singh Roy, and Rai Bahadur Surendra Narayan Sinha.

It is to be regretted that this Council will not have the benefit of their services in its various legislative activities, affecting the interests of the people of this province. Nevertheless, there is no doubt that they will be remembered for the valuable contributions made by them in the work of the legislature during the last three years.

The case of Mr. Hunter, the Leader of the European Group, stands, however, on a different footing. He is retiring from his own choice and the House will certainly feel his absence from its deliberations. Our satisfaction is that he is retiring to his own home after long servce in this land to enjoy well-earned rest.

The Chair would also take this opportunity of congratulating Mr. Hamidul Huq Chowdhury, Mr. Kamini Kumar Dutta, Mr. Nur Ahmed, Mr. Moazzemali Chowdhury, Mr. Lalit Chandra Das, Khan Bahadur Saiyed Muazzamuddin Hosain, Rai Bahadur Brojendra Mohan Moitra, Khan Bahadur Mukhlesur Rahman, Khan Bahadur Kazi Abdur Rashid, Mr. Amulyadhone Roy, and W. F. Scott-Kerr, who have come out successful from the election contest. It is indeed a matter for great pleasure that the House will continue to get their help and counsel in the years to come.

Prorogation.

Mr. PRESIDENT: Order, order. I have it in command from His Excellency the Governor that the Bengal Legislative Council do now stand prorogued.

Members absent.

The following members were absent from the meeting held on the 2nd April, 1940:—

(1) Mr. Kader Baksh.
(2) Mr. Humayun Reza Chowdhury.
(3) Mr. Narendra Chandra Datta.
(4) Khan Bahadur S. Fazal Ellahi.
(5) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(6) Mr. Kanai Lal Goswami.
(7) Nawabzada Kamruddin Haider.
(8) Khan Bahadur Syed Muhammad Ghaziul Huq.
(9) Khan Bahadur M. Abdul Karim.
(10) Maulana Muhammad Akram Khan.
(11) Mr. H. G. G. Mackay.
(12) Dr. Radha Kumud Mookerji.
(13) Rai Bahadur Satis Chandra Mukharji.
(14) Rai Sahib Jatindra Mohan Sen.

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